UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

CASE NO. 4:08cv332-RH/WCS

L.T. a minor child by and through her Permanent Custodian, Vicki McSwain and her Attorney Ad Litem, Sean Culliton, Esq.

Plaintiffs,

v.

JUDY MANDRELL, Individually
LILLIE S. PEASE, Individually
JENNIFER JOHNSON, Individually
GAYLA SPIVEY, Individually,

Defendants.

_____/

COMPLAINT

Plaintiff, L.T., a minor child, (hereinafter referred to as "L.T."), by and through her Permanent Custodian, Vicki McSwain, and Attorney Ad Litem, (hereinafter the "Plaintiff") sues the Defendants, JUDY MANDRELL (hereinafter referred to as "MANDRELL"), LILLIE S. PEASE (hereinafter referred to as "PEASE"), JENNIFER JOHNSON (hereinafter referred to as "JOHNSON"), GAYLA SPIVEY (hereinafter referred to as "SPIVEY") and allege:

JURISDICTION AND VENUE

1. This action arises under and is brought pursuant to 42 U.S.C. §1983 to remedy the deprivation, under color of state law, of rights guaranteed by the Fourteenth Amendment to the United States Constitution. This Court has jurisdiction pursuant to Title 28 U.S.C. 1331.

2. All incidents complained of in this case took place and/or affected L.T. within the Northern District of Florida.

THE PARTIES or OTHER RELEAVENT INDIVIDUALS and FACTUAL SUMMARY

3. Plaintiff, Vicki McSwain, as Permanent Custodian for L.T., and SEAN CULLITON as the Attorney Ad Litem for L.T. appointed on or about April 29, 2008, by Circuit Judge George Reynolds bring this action on behalf of the minor, L.T.. Prior to Sean Culliton, Mark Walker was the Attorney Ad Litem.

THE MINOR L.T.

4. The minor child, L.T., from time to time, but at all times material hereafter, was a dependent child in the legal and physical custody of the Florida Department of Children and Family Services[1] (hereinafter referred to as "Department").

4a. In 1995, the Department placed 1-1/2 year old, L.T. in "temporary" placement with her paternal uncle, EDDIE THOMAS and VICKI THOMAS, his wife. The Department was aware at all material times that while EDDIE THOMAS was in custody of L.T., EDDIE THOMAS was not only arrested but also eventually "convicted" as a Sexual Offender of a minor pursuant to Florida Statutes, §944.607 and §943.0435 and ultimately required to register as a Registered Sexual Offender.

4b. Despite having this knowledge since 1997, the Department through the actions and inactions of the each and every Defendants specifically proceeded to advocate, recommend and place 4-year-old L.T. in "Long-Term Relative Placement" with

[1] The Department of Health and Rehabilitative Services was redesignated as the Department of Children and Family Services by s. 5, Ch. 96-403, Laws of Florida.

EDDIE THOMAS and VICKI THOMAS and to further withdraw Department Protective Services protection.

4c. In 2000, the Department at the recommendation of Defendants MANDRELL and PEASE permanently placed L.T. in the care and custody of her Sexual Offender uncle, Eddie Thomas, and terminated protective services for L.T. and her younger brother in 2000.

4d. In 2003, the Department received an anonymous HotLine abuse report alleging that EDDIE THOMAS was a Registered Sexual Offender. The report also indicated that there was possible sexual abuse involving L.T., and cocaine/crack cocaine use. Lastly, the report indicated that the female caretaker, VICKI THOMAS was additionally not an appropriate caretaker because her own children were taken away from her.

4e. The Department and each and every Defendants were aware that L.T.'s uncle EDDIE THOMAS was a Registered Sexual Offender with FDLE. However the Department closed the 2003 abuse report file after Defendants performed a superficial, sketchy, and conclusory investigation and thereby recklessly continued to leave the female minor L.T. in the care and custody of her Sexual Offender uncle, EDDIE THOMAS. Further, the Defendants JOHNSON and SPIVEY continued to withhold Protective Services from L.T..

4f. L.T., at all material times, resided in Gadsden County, within the Northern District of Florida. The date of birth of L.T. was March 18, 1994.

4g. On or about, February 24, 2005, the minor L.T., who was then age 10-1/2 years, packed a small bag and crawled out of a window from the home of EDDIE

THOMAS. The minor L.T. was picked up several miles down the road by a Gadsden County Sheriff's deputy. The deputy started to take L.T. back to the Thomas home until she started crying and begging the deputy not to take her back to VICKI THOMAS and EDDIE THOMAS. L.T. stated she was afraid and that her uncle had been touching her.

4h. In conducting an interview at the Sheriff's office, and upon noticing that L.T. was hesitant to talk, the Victim Advocate with the Gadsden County Sheriff's Office ("GCSO") using proper interviewing techniques for child abuse victim removed L.T.'s custodian, VICKI THOMAS, from the room and began to discuss school and home life in general with L.T.. L.T. then began to reveal that she had been repeatedly sexually and physically abused by EDDIE THOMAS. L.T. also described to the GCSO repeated beatings by EDDIE THOMAS and VICKI THOMAS using broom handles, car seat belts, cords, hands, among other items.

4i. L.T. began to describe to the GCSO how her uncle, EDDIE THOMAS, would come into her room at night and start to kiss her and touch her "here and here," pointing to her vagina and breasts, and she stated that "He even tried to put his tongue down there," and that "when he kisses her on the lips it's for a long time."

4j. Further, L.T. advised the GCSO that one day when she got back home from school, she was beaten by EDDIE THOMAS for disclosing to VICKI THOMAS that EDDIE THOMAS had been sexually abusing her.

4k. In forensic interviews recorded by video tape and conducted by the Department's Child Protection Team ("CPT"), L.T. told CPT how EDDIE THOMAS stuck his hand under her clothes and underneath her underwear using the palm of his hands and also "did it with his fingers" and that he "had kissed me in my mouth." After

being asked by CPT to specifically describe EDDIE THOMAS' most recent incident of sexual abuse, L.T. stated that EDDIE THOMAS had touched her on her face and kissed her in her mouth, on her "chest [breasts]," "front [vagina]" and "back [buttocks]."

41. In a subsequent forensic interview, the minor L.T. stated to CPT that, EDDIE THOMAS, had warned L.T. not to tell VICKI THOMAS about the sexual abuse. EDDIE THOMAS was well known to the GCSO and the Gadsden County State Attorney's Office as a result of his previous arrest for rape and plea to lewd and lascivious conduct with of a 13-year-old daughter of his girlfriend. This 1997 plea resulted in EDDIE THOMAS Registered Sexual Offender status in 2002.

4m. L.T. would additionally reveal during forensic interviews that L.T. witnessed cocaine/crack cocaine and illegal drug use during her placement with EDDIE THOMAS and VICKI THOMAS, including cocaine/crack cocaine use by EDDIE THOMAS on the day before L.T. ran away. These allegations were similar to the anonymous allegations contained in a 2003 Abuse HotLine report regarding referencing L.T. and her younger brother.

4n. As a result of the forensic interviews, CPT "concluded that there are verified findings of sexual molestation of L.T. by her father, Eddie Thomas," the CPT also concluded that Vicki Thomas failed to protect L.T. from her uncle's abuse. On or about April 4, 2005, EDDIE THOMAS was arrested for sexual battery on a child (L.T.) below that age of 12.

DEFENDANT JUDY MANDRELL

5. Defendant **MANDRELL** was employed by the Department, at all times relevant hereto, as a case worker and later as a Sr. Children & Families Counselor, and

was obligated to comply with all state and federal laws and regulations as well as departmental/district procedures regarding children in state care. As a case worker, Defendant MANDRELL had the authority, responsibility and duty to: 1) identify and assess the needs of minor children placed in the care of the Department including but not limited to safe placement; 2) conduct thorough relative/non-relative home studies for use in evaluation and assessment of home placements and to thoroughly assess, screen and evaluate the potential custodians and homes; 3) conduct background and criminal background checks of all appropriate persons so that children were not placed in a dangerous home where the situation presents a substantial and immediate danger of their being left in a position to be harmed or subjected to sexual abuse; 4) deny long or short term placement of a child where the Department's HomeStudy and criminal history background checks revealed the safety and wellbeing of the child would be endangered or could not be assured 5) accurately prepare and maintain case documentation and case/status reports and make recommendations to be directly used to determine the safety and placement of children; 6) conduct child safety assessments; 7) regularly visit children and observe their interactions with their custodians and determine the custodians ability to provide a safe environment and check the children for signs of neglect, abuse, and assess their safety; 8) formulate safety plans during open investigations in order to establish the necessary precautions in protecting the physical and emotional safety of children under state care; 9) continually assess the adequacy and safety of a child's particular placement; 10) maintain post placement supervision and maintain or reinstate protective services of children where such children would be left without the oversight of protective services in a dangerous home where they were in a position to be harmed or

subjected to sexual abuse or other physical or emotional abuse; 11) ensure that children were not placed in a home where the resident custodian of the home is a felony sexual offender of minor children as defined by Florida Statutes where they would be subjected to physical, emotional and sexual abuse. As a case manager, Defendant MANDRELL had the ability, authority and the means to disqualify unfit potential custodians. Defendant MANDRELL had the ability, authority and the means to direct the removal of a child from any placement in which there was a substantial risk of serious harm to the child. **Defendant MANDRELL is being sued in her individual capacity. Defendant MANDRELL in connection with her interactions with the minor L.T. failed in her well-established statutory duties and is not entitled to the defense of qualified immunity in that, inter alia, she allowed, with full knowledge, the placement or continued placement of L.T. with a documented Registered Sexual Offender as defined by the laws of the State of Florida.**

DEFENDANT LILLIE S. PEASE

6. Defendant **PEASE** was employed by the Department at all times relevant hereto, as a supervisor of case workers and a Children & Families Counselor Supervisor for the Department, and was directly involved with the supervision of case workers and the placement of Children. At all times relevant hereto, Defendant PEASE was obligated to comply with all state and federal laws and regulations as well department/district procedures regarding children in state care. Defendant PEASE had the ongoing duty to assess, screen and evaluate placement of children, including but not limited to, ensuring proper assignment of cases and to supervise and evaluate the performance of case workers and support staff and to review assessments and placements, including Home

Studies, DCF Case Plans and DCF Child Safety Assessments. As a supervisor of case workers, Defendant PEASE had the authority and responsibility to: 1) ensure proper placement of children in accordance with applicable state statutes, administrative rules and applicable department regulations; 2) confirm the safety and well-being of each child in a home from the counselor responsible for supervision; 3) deny relative and non-relative placement where the residents of a home posed a substantial risk of harm to the children placed there; 4) ensure that case workers completed and followed state and departmental procedure on all documentation and reports; 5) ensure that background and criminal background checks were conducted and taken into consideration so that children were not placed in a dangerous home where they where they were in a position to be harmed or subjected to sexual abuse; 6) ensure that children were not placed in a home where there were open abuse investigations; and 7) ensure that children were not placed in a home within the daily and immediate proximity of a convicted felony sexual offender of minor children as defined by Florida Statutes where they were subjected to physical, emotional and sexual abuse. As a supervisor, Defendant PEASE had the ability, authority, means and duty to disqualify unfit potential custodians. As a supervisor, Defendant PEASE had the ability, authority, means and duty to direct the removal of a child from any placement in which there was a substantial risk of serious harm to the child. **Defendant PEASE is being sued in her individual capacity. Defendant PEASE failed in her well-established statutory duties and is not entitled to the defense of qualified immunity in that, inter alia, she allowed, with knowledge, the placement or continued placement of L.T. with a documented registered sexual offender as defined by the laws of the State of Florida.**

DEFENDANT JENNIFER JOHNSON

7. Defendant, **JOHNSON,** at all material times hereto, was employed as a Child Protective Investigator by the Department, serving as Agent Investigator for District 2B and obligated to comply with all state and federal laws and regulations as well as departmental/district procedures regarding children in state care. As a Child Protective Investigator, Defendant JOHNSON had a duty to: 1) respond to reports of abuse, neglect, abandonment and/or special conditions and determine findings; 2) enter accurate and complete information into *HomeSafenet* and other information systems; 3) investigate and assess alleged abuse of children and to write accurate reports in accordance with all applicable rules and regulations; 4) conduct and accurately complete Child Safety Assessments and accurately incorporate criminal histories checks, request a local history check from law enforcement, request prior reports and service reports on all subjects of the report to evaluate patterns of behavior that may pose a risk to the child; 5) assess family strength and risks and in making an assessment, take relevant factors into consideration including but not limited to whether the child is in a safe environment, the ability of the custodian to protect the child and ensure the safety of the child, and existence of criminal history of prior abuse; 6) identify safety threats present and assess child safety and risk; 7) develop a safety plan of action and provide continuous, ongoing assessment of a safety plan so as to determine whether the Safety Plan is appropriate for the child's circumstances and whether the child's current circumstances indicate that a Safety Plan is needed; 8) schedule and gather information for and participates in case staffing; 9) determine the need for protective action; 10) assist in removing at-risk children and to obtain temporary emergency placements and other emergency services for

at-risk children so as to ensure children will not be left in a position to be harmed or subjected to sexual abuse or other physical or emotional abuse; 11) employ knowledge of investigative techniques and practices including supposed specialized knowledge in interviewing and observing at-risk children. Defendant JOHNSON had the ability, authority and the means to direct the removal of a child including the minor L.T. from any placement in which there was a substantial risk of serious harm to the child. **Defendant JOHNSON is being sued in her individual capacity. Defendant JOHNSON failed in her well-established statutory duties and is not entitled to the defense of qualified immunity in that, inter alia, she allowed, with full knowledge, the placement or continued placement of L.T. with a documented Registered Sexual Offender as defined by the laws of the State of Florida.**

DEFENDANT GAYLA SPIVEY

8. Defendant, **SPIVEY**, at all material times hereto, was employed as supervisor of the Child Protective Investigators by the Department, for District 2B and obligated to comply with all state and federal laws and regulations as well as departmental/district procedures regarding children in state care. As a Child Protective Investigator Supervisor, Defendant SPIVEY had a duty to: 1) supervise Child Protection Team Investigators to ensure that Child Protection Team Investigators respond to abuse reports; 2) delegate and oversee assignments; 3) ensure that Child Protection Team Investigators properly and thoroughly investigate and access the alleged abuse, neglect and exploitation of children and to write accurate reports in accordance with all applicable rules and regulations and consider criminal histories; 4) utilize knowledge of investigative techniques and practices including their supposed specialized knowledge of

interviewing and observing at-risk children; 5) ensure that Child Protective Team Investigators act to properly and promptly to remove at-risk children and to obtain temporary emergency placements and other emergency services for at-risk children and ensure children will not be left in a position to be harmed or subjected to sexual abuse or other physical or emotional abuse; and 6) sign-off as the supervisory review of Safety Decisions. Defendant SPIVEY had the ability, authority and the means to direct the removal of a child from any placement in which there was a substantial risk of serious harm to the child. **Defendant SPIVEY is being sued in her individual capacity. Defendant SPIVEY failed in her well-established statutory duties and is not entitled to the defense of qualified immunity in that, inter alia, she allowed, with full knowledge, the placement or continued placement of L.T. with a documented Registered Sexual Offender as defined by the laws of the State of Florida.**

VALARIE MCSWAIN

9. At all material times hereto, **VALARIE MCSWAIN**, was the natural parent of L.T. and was the custodial parent of L.T. until August 1995.

EDDIE THOMAS

10. At all material times hereto, **EDDIE THOMAS**, at all material times hereto, was the husband of Vicki Thomas and the paternal great uncle of L.T. On or about August 21, 1996, Eddie Thomas was arrested pursuant to a Probable Cause Affidavit, for the Lewd, Lascivious Assault on a Child Under the Age of 16 and Sexual Battery on a Child Under the Age of 18 pursuant to F.S. §800.04. The victim of this crime was not L.T.. On or about September 9, 1996, Eddie Thomas was charged by Information with Lewd, Lascivious, or Indecent Assault on a Child Under Sixteen Years of Age contrary to FS §800.04(1) in Case Number 96-595-CFA.

On or about January 24, 1997, the State of Florida filed an Amended Information adding the charges of Sexual Battery on a minor. On or about March 20, 1997, the State Attorney filed its Second Amended Information alleging that EDDIE THOMAS engaged in lewd and lascivious acts on a minor child under the age of 16 by rubbing or placing his tongue on the minor child's vaginal area in violation of Florida Statute 800.04(1). On or about April of 1997, Eddie Thomas was "convicted[2]" for purposes of Florida Statute 944.607 in Gadsden County of lewd and lascivious assault on a minor child under that age of 16. This plea and withheld adjudication resulted in EDDIE THOMAS being classified as a "Sexual Offender" under Florida Statute §944.607. From August 25, 1995 up through and including March 3, 2005, L.T. was in the custody and control of EDDIE THOMAS during which EDDIE THOMAS regularly sexually assaulted L.T. Each DEFENDANT during the time periods alleged herein had actual knowledge that EDDIE THOMAS was a Sexual Offender, a Registered Sexual Offender beginning in 2002, in custody and control of L.T. and recklessly advocated placement of and continued placement of L.T. with EDDIE THOMAS after each Defendant had actual knowledge that EDDIE THOMAS was a Sexual Offender as defined by the laws of the State of Florida. Defendant's were further aware or should have been aware of EDDIE THOMAS' criminal drug history. EDDIE THOMAS is also known by his alias "EDDIE CANNON."

VICKI THOMAS

11. **VICKI THOMAS (aka, Vicki Crumbia, and Vicki Nixon)**, at all material times hereto, was the wife of EDDIE THOMAS. On or about 1982, VICKI THOMAS abandoned her natural children. VICKI THOMAS was repeatedly sued by

[2] Pursuant to Florida Statute s. 944.607 and 943.0435, EDDIE THOMAS'plea of no contest and adjudication withheld in a case involving sexual molestation of a child constitutes a "conviction" under Florida Statutes and further provided that in 2002 he Register as a " Sexual Offender."

Department as a result of her failure to pay Court ordered child support for her natural children. This information was readily available and accessible within the public records of Gadsden County to all Defendants. On or about September 22 1995, L.T. was placed in the custody of VICKI and EDDIE THOMAS, as a result of Valerie McSwain, L.T.'s natural mother's continuing drug addiction. The Defendant MANDRELL and PEASE had actual knowledge that VICKI THOMAS was also known as VICKI CRUMBIA and VICKI NIXON prior to placement of L.T. with EDDIE AND VICKI THOMAS. Defendants MANDRELL and PEASE were aware or knew or should have known that VICKI THOMAS had previously abandoned her natural children in 1982 and that under the names of VICKI THOMAS, VICKI CRUMBIA and VICKI NIXON, that VICKI THOMAS had been repeatedly sued in Gadsden County by the Department for failing to pay Court ordered child support. Defendants MANDRELL, PEASE, JOHNSON and SPIVEY recklessly failed to properly investigate the basis for the loss of custody of the natural children of VICKI THOMAS. Moreover, Defendants had actual knowledge that in addition to a 2001 Larceny charge, in 2002, VICKI THOMAS was prosecuted by the State for felony Public Assistance Fraud in connection with payments received by her in connection with her custody of L.T.. Lastly, each Defendant knew that VICKI THOMAS repeatedly lied to the Department concerning the misconduct of EDDIE THOMAS.

GENERAL ALLEGATIONS

RELEVANT STATUTES AND RULES

12. At all relevant times hereto each Defendant was aware that, §39.508 Florida Statutes provided that the Department shall not place the child or continue the

placement of the child in the home of the proposed legal custodians if the results of the home study are unfavorable.

13. At all relevant times hereto each Defendant was aware that, Florida Administrative Code, Rule 65C-11.003 (4) (b) (Relative Placement Rule) required that certain enumerated factors must be thoroughly explored and specifically addressed in a predisposition study and such factors must be documented in the case file before such recommendation be given to the Court by the Department.

14. At all relevant times hereto each Defendant was aware that, Florida Administrative Code 65C-11.003 (Relative Placements) provided that the Department must thoroughly explore and specifically address, in a predisposition study, factors that include, any history of criminal activity or incidents of abuse, neglect, or abandonment; capacity for parenting; financial ability to assume care of the child, with or without outside assistance; potential problem areas; degree of relationship between the relative and the child; the attitude of the relative toward the child's parent, inter alia, when the Department recommends even the temporary relative placement of a dependent child.

15. At all relevant times hereto each Defendant was aware that, the Department's Operating Procedure, CFOP175-34 provided that when a child is placed with a relative the Department staff will determine that the home is a safe and secure environment by assessing the criminal histories of the potential caregivers, and must assess the capacity for parenting including parenting skills, stability of the marriage, family relationships, adequacy of the physical setting, financial ability to assume care of the child; the relative or non-relative's ability and willingness to protect the child from

further abuse; the attitude of the relative and non-relative toward the child's parents; inter alia.

16. At all relevant times hereto each Defendant was aware that, §435.045, Florida Statutes provided that there is a complete bar to any placement where the mandatory §435.04, F.S., level 2 screening check of their criminal records reveals any felony "conviction" for child abuse or a crime against children including rape or sexual assault.

17. At all relevant times hereto, each Defendant was aware that §435.04, Florida Statutes provided that Level 2 screening standards establishes a complete bar to placement of a child where a security background investigation reveals that such person has been found guilty, regardless of adjudication, or entered a plea of nolo contendere, of the offense under Chapter 800, relating to lewdness and indecent exposure.

18. At all relevant times hereto each Defendant was aware that, §800.04, Florida Statutes provided that it is a criminal felony of the second degree to commit a lewd, lascivious, or indecent assault or act upon or in presence of a child under the age of 16 years.

19. At all relevant times hereto and after September 1996, all Defendants were aware that EDDIE THOMAS was arrested for and then "convicted" under Florida Statutes §944.607 and §943.0435 as a felony Sexual Offender of a minor child. Despite this knowledge, Defendants took no action to protect and remove L.T., a minor female child approximately 2-1/2 years old, from her then current placement with her Sexual Offender paternal great uncle. Instead, Defendants with reckless disregard advocated and further proceeded to formally recommended to the Court that L.T. be placed in the "Long-

Term Permanent Placement" and care and custody of her "convicted" Sexual Offender uncle, EDDIE THOMAS, and additionally that Protective Services for L.T. be terminated. Stated otherwise, each Defendant failed to act to protect L.T. even when they were in actual possession of this knowledge.

20. At all relevant times hereto each Defendant was aware that, §39.001, Florida Statutes provided that the children of this state be provided with protections that include protection from abuse, a stable home, a safe and nurturing environment which will preserve a sense of personal dignity and integrity, access to preventive services, and an independent, trained advocate, when intervention is necessary and a skilled guardian or caregiver in a safe environment when alternative placement is necessary.

21. At all relevant times hereto each Defendant was aware that, §39.521, Florida Statutes provided that when the home situation indicates that it presents a substantial and immediate danger to the child's safety or physical, mental, or emotional health which cannot be mitigated by the provision of preventive services or the child cannot safety remain at home, either because there are no preventive services that can ensure the health and safety of the child or, even with appropriate and available services being provided, the health and safety of the child cannot be assured, then the duty to make a reasonable effort to prevent or eliminate the need for removal in promoting family preservation is satisfied and accordingly a child may be removed.

22. At all relevant times hereto each Defendant was aware that, §39.508, Florida Statutes provided that Protective Supervision of an authorized agent of the Department in the home of a relative of the child or of another adult, may continue until a child reaches the age of 18.

23. At all relevant times hereto each Defendant was aware that, §944.607, Florida Statutes provided that "Sexual Offender" is defined as a person who has been "convicted" of the criminal offense under §800.04, and that "Convicted" means a determination of guilt which is the result of a plea of nolo contendere, regardless of whether adjudication is withheld, and that the Sexual Offender shall provide his identifying information and residential address with law enforcement as a "Sexual Offender."

24. At all relevant times hereto each Defendant was aware that, §943.0435, Florida Statutes provided that all Sexual Offenders register identifying information and residential address with law enforcement as a "Sexual Offender upon release from probation, and that "Sexual Offender" is defined as a person who has been "convicted" of the criminal offense under § 800.04, and that "Convicted" means a determination of guilt which is the result of a plea of nolo contendere, regardless of whether adjudication is withheld.

25. At all relevant times hereto each Defendant was aware that, §948.03, Florida Statutes provided that probationers whose plea of nolo contendere was for committing the crime of s. 800.04 (lewd and lascivious acts against a child under 16 years of age) undergo outpatient counseling and must actively participate in and successfully complete Sex Offender treatment program with a therapists specifically trained to treat Sex Offenders.

26. At all relevant times hereto each Defendant was aware that, §39.303, Florida Statutes, provided that the Child Protection Team had the capability of providing the specialized diagnostic assessment, evaluation, coordination, consultation, and other

supportive services including medical diagnosis and evaluation services related to abuse, abandonment, or neglect; psychological and psychiatric diagnosis and evaluation services for the child and custodian or caregivers involved in a child abuse, abandonment or neglect case; and case service coordination and assistance.

27. At all relevant times hereto each Defendant was aware that, Florida Administrative Code 65C-10.003 (Child Protective Investigations), provides that for every child abuse and neglect report, the protective investigator must assess the risk for each child in the family, and that removal of the child will be considered if the protection of the child, or the provision of care for the child, cannot otherwise be assured.

28. At all relevant times hereto each Defendant was aware that, the Department's Operating Procedure, CFOP 175-28 provided a list of the four must crucial steps in the investigative process of child protective services as (1) assessing the nature and severity of a reported injury or harm to a child; (2) assessing if a substantial likelihood of immediate injury or harm exists; (3) assessing the probability of further harm; and (4) determining if the necessary elements are present for a finding of child abuse neglect or abandonment, and that in the Departments Allegation Matrix, "**sexual battery (incest)**" is code #20 and defined to include "sexual battery or sexual intercourse by a relative of lineal consanguinity (parent or grandparent) or by an . . . uncle . . . while responsible for the child's welfare"; "sexual molestation" is code #24 and is defined to include intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks of the child by the abuser and encouraging, forcing or permitting the child to inappropriately touch the same parts of the alleged abuser's body; "substance exposed child" is coded as #42 and defined as severe use of a controlled

substance when the child is demonstrably adversely affected by such use; and "failure to protect from inflicted injury" is coded as #97 and defined as failure of person responsible for a child's welfare to protect a child from injury inflicted by the mental, physical or sexual acts of another.

29. At all relevant times hereto each Defendant was aware that, the Department's Operating Procedure, CFOP 175-20 provided that the Child Protective Team identifies risk factors and interventions for reducing the risk of further abuse, and that the Team's assessment activities include medical diagnosis and evaluation, medical consultation, other consultation, specialized interview of children, family psychosocial assessment, nursing assessment, psychological and psychiatric evaluation.

NO DEFENSE OF QUALIFIED IMMUNITY

30. At all material times hereto, each Defendant breached with reckless disregard the statutory duties codified in the Statutes, Rules, and Department Operating Procedures set forth above. Each of the Statutes, Rules and Department Operating Procedures were well established and constituted the well known statutory duties which each Defendant was required to exercise and execute. Accordingly, none of the Defendants are entitled to the defense of qualified immunity.

WITH RECKLESS DISREGARD, DEFENDANTS FAILED TO CONDUCT AN ACCURATE AND COMPLETE HOMESTUDY AND PRE-DISPOSITION STUDY AND RECKLESSLY PLACED L.T. WITH VICKI THOMAS AND EDDIE THOMAS

31. On or about August 15, 1995, L.T. was removed from the custody of her under-aged, biological mother, VALERIE MCSWAIN, and placed in a Department shelter. The removal of L.T. was undertaken pursuant to an Affidavit and Petition for the Detention of a Child executed by Defendant MANDRELL. On August 15, 1995, L.T.

was properly placed in the care and custody of Mary and Leonard Gilliam, previously approved foster parents for the Department. Defendant MANDRELL's petition alleged that L.T. be determined dependent as a result of neglect and inadequate supervision. On or about August 25, 1995, L.T. was adjudicated "Dependent" within the meaning and intent of Chapters 39 and 415, Florida Statutes (1994).

32. On or about September 22, 1995, then 1-1/2 year old, female, L.T. was placed in "temporary" care and custody of her uncle, EDDIE THOMAS and VICKI THOMAS and further placed under the Department's "Protective Services Supervision."

Biological Mother's Warning of Drug Use By Eddie and Vicki Thomas

33. In 1996, the biological mother of L.T. had warned the Defendant MANDRELL that she had heard that VICKI THOMAS and EDDIE THOMAS were doing drugs daily. Additionally, the Defendant MANDRELL specifically documented that "[The biological mother of L.T., VALERIE MCSWAIN] wanted a drug test on [VICKI THOMAS and EDDIE THOMAS]." Defendant MANDRELL recklessly failed her duty to inquire or investigate the serious charge of drug use by the custodians of L.T. and the ensuing threat posed by drug use to the female toddler L.T. Without performing any inquiry and despite EDDIE THOMAS' prior criminal history, arrest and 3-year probationary term for Narcotic Equipment Possession (of which Defendant was under a duty to know, and knew or should have known), Defendant MANRELL simply ignored and dismissed the biological mother's warning and request that her minor child, L.T., be removed from the custody and care of EDDIE THOMAS and VICKI THOMAS. In Defendant MANDRELL'S own handwriting she documents her reckless and callous handling of the maternal mother's warning of drug use in the following notation:

"No one was home . . . Counselor has no reason to believe Eddie & Vicki are using drugs all of a sudden."

34. Defendants MANDRELL and PEASE were aware or should have been aware that their Department's own studies showed drug use by a male living with a minor female to be a marker for potential sexual molestation of the child, and therefore Defendants' failure to act and protect the minor L.T. regarding information of drug use by her adult male custodian constituted reckless disregard.

35. Defendant MANDRELL and PEASE knew or should have known that VALERIE MCSWAIN, the under-aged biological mother of L.T., was actively involved in the drug community of Sawdust and as such in the position to exchange information regarding matters involving drugs including whose selling, whose buying and whose using. Despite the warnings by VALERIE MCSWAIN concerning EDDIE THOMAS' prior acknowledged drug offense, Defendants MANDRELL and PEASE recklessly took no action and failed to request that EDDIE THOMAS be given a drug test as a condition to continued placement and took no action to assess L.T.'s safety.

Home Study and PreDisposition Study

36. At all relevant times hereto, Defendants MANDRELL and PEASE were aware or should have been aware prior to the Thomas Home Study and Pre-Disposition Study that VICKI THOMAS' three natural children did not live with her in her home. Further Defendants MANDRELL and PEASE had actual knowledge that VICKI THOMAS' former names were VICKI NIXON and VICKI CRUMBIA. Despite this knowledge, Defendants failed to further inquire as to why VICKI THOMAS failed to have custody of her own children, and recklessly failed to discover, or were otherwise aware or should have been aware, that VICKI THOMAS had abandoned her own

children. Furthermore, VICKI THOMAS' three natural children were actually living within the same County, Gadsden County, contrary to VICKI THOMAS' representation that her natural children were living "up North" with their father in Connecticut. Moreover, an inquiry by Defendants MANDRELL and PEASE into the Department's own records would have revealed that the DEPARTMENT had repeatedly filed claims against VICKI NIXON, VICKI CRUMBIA, and VICKI THOMAS for failure to pay child support for her three abandoned children. In a Child Protective Investigation conducted in 2005, the Department documents under the heading "History of Family: a. Prior reports (attach copies)," the notation "Vickie has 1 prior;" a copy of this "prior" was not attached to their records or removed prior to production of Department file to L.T.'s lawyers. In performing the Home Study and Pre-Disposition Study, Defendants MANDRELL and PEASE acted with reckless disregard and gross negligence.

37. At all material times hereto, Defendants MANDRELL and PEASE recklessly failed to inquire about and specifically address in the HomeStudy, the Pre-Disposition Study and the Case Plan, VICKI THOMAS' (1) failure to have custody of her own natural children due to abandonment and abuse; (2) failure to pay Court-Ordered child support for her three natural children; and (3) lack of candor and truthfulness regarding the reasons she did not have custody of her own natural children and their whereabouts.

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38. On September 15, 1995, Defendants MANDRELL and PEASE conducted a Home Study of the Thomas home in Sawdust, Gadsden County, in connection with the placement of L.T. with EDDIE THOMAS and VICKI THOMAS. The Home Study of the Thomas home found that Thomas home lacked running water, and that potable water must be obtained from a neighbor who lived next door. The removal of the toddler, L.T., and her infant sibling from an approved foster home with running water and placement into a home without running water constitutes gross negligence and reckless disregard. The Thomas Home Study also grossly misrepresents that Sawdust is not an area known for drug use when in fact MANDRELL and PEASE had actual knowledge that the Sawdust area of Gadsden County was an area which in 1995 was widely known to be a location where crack cocaine was produced and sold. The Home Study documented that the Thomas Home lacked sufficient bedrooms for L.T. and her brother. The Home Study also determined that the natural children of both EDDIE THOMAS and VICKI THOMAS resided with other relatives which should have put Defendants MANDRELL and PEASE on notice that the natural children of EDDIE THOMAS and VICKI THOMAS may have been removed from the home or a judicial decision had been previously rendered with a finding that EDDIE THOMAS and VICKI THOMAS were not fit parents. The Thomas Home Study indicated that MANDRELL and PEASE conducted no investigation into the circumstances which resulted in EDDIE THOMAS and VICKI THOMAS not having custody of their natural children.

39. Defendants MANDRELL and PEASE proceeded to remove LT from an approved foster home in order to place LT and her infant brother in the care and custody of her paternal great uncle, EDDIE THOMAS, despite Defendant MANDRELL and

PEASE'S acknowledgment in the Home Study that EDDIE THOMAS had been arrested for possession of marijuana and additionally for non-payment of child support. Although the Home Study indicated that State and Federal Criminal Histories had been ordered for EDDIE THOMAS and VICKI THOMAS, no criminal histories were apparently ordered and none are in the relevant files of the Department produced to the Plaintiff and her counsel. The failure to obtain State and Federal criminal histories in 1995, on EDDIE THOMAS and VICKI THOMAS constituted reckless disregard by Defendants PEASE and MANDRELL and was in clear violation of Department Procedure and Policy. The reckless failure by the Defendant MANDRELL and PEASE to conduct background checks or criminal histories on EDDIE THOMAS and VICKI THOMAS violated the Florida Administrative Code 65C-11.003, the Department's Policy and Procedure, CFOP 175-34, the Case Plan dated October 12, 1995 as well as the Home Study of September 15, 1995. Defendant's reckless failure to obtain these background checks and criminal histories resulted in L.T. being placed in the care and custody of persons who had received virtually no Departmental scrutiny as mandated in the Home Study and Case Plan and required by law. The rudimentary Home Study of September 15, 1995, yielded findings which should have resulted in the placement of L.T. at another location with other relatives of L.T. or in licensed foster care placement. Furthermore, Defendants MANDRELL and PEASE failed to determine that both EDDIE THOMAS and VICKI THOMAS used aliases. Finally, the Home Study investigation was done in such a sloppy, haphazard manner that Defendants MANDRELL and PEASE recklessly failed to check the public records or the Departments records concerning the true facts relating to

VICKI THOMAS' natural children and which would have further revealed VICKI THOMAS willingness and propensity to lie.

40. At all material times hereto, the Defendants MANDRELL and PEASE and the Department and other Departmental employees were aware or should have been aware that §39.508 Florida Statutes prohibited the Department from placing a child or to continue the placement of the child in the home of the proposed legal custodians if the results of the home study are unfavorable. Defendants MANDRELL and PEASE recklessly violated the duties imposed by the statute by omitting all unfavorable information.

41. At all material times hereto, Defendants MANDRELL and PEASE recklessly violated the Florida Administrative Code, Rule 65C-11.003 (4) (b) (Relative Placement Rule) in placing L.T. with VICKI THOMAS and EDDIE THOMAS. The Relative Placement Rule is designed to ensure the safe placement of children with relatives. Departmental Caseworkers and Supervisors are required to thoroughly explore and specifically address a list of factors and further must document the specific factors in a Pre-Disposition Study before temporary custodial placement may be recommended to a Court by the Department. The factors that must be considered pursuant to the Relative Placement Rule are as follows:

(1) The degree of relationship between the relative and the child;
(2) The attitude of the relative toward the child's parent;
(3) Previous knowledge about and relationship with the child;
(4) Capacity for parenting;
(5) Description of each member of the relative family and the family member's attitude toward placement of the child in their home;
(6) Willingness and ability to make a commitment to the child's care for the duration of placement;
(7) Financial ability to assume care of the child, with or without outside assistance;

(8) Willingness to work with the agency during the period of supervision as an indication of their understanding of and reaction to applicable Department policies;
(9) Supportive services which will be necessary to maintain the placement;
(10) Recommended length of placement;
(11) Potential problem areas;
(12) Any history of criminal activity or incidents of abuse, neglect or abandonment; and
(13) Evaluation and recommendation.

42. Defendant's MANDRELL and PEASE recklessly violated the Relative Placement Rule[3] in conducting their prescribed studies. The studies failed to specifically address and document the capacity for parenting by (1) VICKI THOMAS, who had abandoned her own children; and (2) EDDIE THOMAS, who had been arrested for failing to pay child support. Furthermore, the studies indicate that the Defendant's MANDRELL and PEASE recklessly failed to obtain full and complete prior criminal histories of EDDIE THOMAS and VICKI THOMAS. Furthermore, the studies ignored the lack of running water in the Thomas home and that substantial additional construction to the THOMAS' trailer would be required before running water could be obtained (another room had to built before running water could be added). The studies clearly indicate that the THOMAS' lacked the adequate financial means to construct an extra room. The studies failed to mention that VICKI THOMAS was in fact a victim of horrendous sexual abuse previously, which Defendant's MANDRELL and PEASE knew from the DEPARTMENT'S own studies was an indicator for future abuse within the home, of denial of current abuse and could psychologically cause VICKI THOMAS to fail to protect other children in her custody from sexual abuse. The studies failed to

[3] The Predisposition Study and the Home Study were conducted on September 18, 1995, and September 15, 1995, respectively.

specifically address and document the THOMAS' financial ability to assume care of L.T. stating only that EDDIE THOMAS was employed and that VICKI THOMAS was not employed. The studies failed to specifically address and document the abuse, neglect and abandonment by VICKI THOMAS of her natural children as well as address the numerous suits filed by the Department against VICKI THOMAS for her failure to pay child support for her three natural children and further failed to follow up on the lack of a complete criminal history of EDDIE THOMAS and VICKI THOMAS.

43. The Case Plan conducted October 13, 1995, documented that there were other relatives available for placement of L.T. in addition to EDDIE THOMAS and VICKI THOMAS; however these relatives were not properly considered by Defendants MANDRELL and PEASE.

WITH RECKLESS DISREGARD, DEFENDANTS CONTINUED PLACEMENT OF THE MINOR, L.T., WITH EDDIE THOMAS DESPITE EDDIE THOMAS' ARREST FOR A FELONY SEXUAL CRIME AGAINST A CHILD IN 1996

44. On September 9, 1996, the State Attorney's Office filed an Information charging EDDIE THOMAS with "Lewd, Lascivious, or Indecent Assault on Child Under Sixteen Years of Age," contrary to Section 800.04(1) FL Stats. The alleged child victim was the 13-year old daughter of EDDIE THOMAS' girl friend.

45. On September 23, 1996, Defendant MANDRELL was made aware by the biological mother of L.T., VALERIE MCSWAIN, of the fact that the Department had placed L.T. in the long-term care and custody of her uncle EDDIE THOMAS who was arrested on felony criminal charges for a sexual offense against a female child. The Defendant MANDRELL documented VALERIE MCSWAIN'S office visit in the Department's Protective Services Casework Activity Log as follows:

> "Valerie also informed Counselor that Eddie had been arrested for sexually molesting a little girl. And she wanted her daughter out of the house."

46. At all material times hereto, Defendants MANDRELL and PEASE had actual knowledge that on or about August 21, 1996, EDDIE THOMAS was charged by Probable Cause Affidavit with "Lewd, Lascivious Assault" on a 13-year old child and with reckless disregard for the safety and welfare of L.T. failed to remove L.T. from the Thomas household.

47. At all material times hereto, Defendants MANDRELL and PEASE, were aware that the female caretaker of L.T., VICKI THOMAS had knowledge as of August 22, 1996 that EDDIE THOMAS had been charged and arrested for sexual battery on a child, but that VICKI THOMAS failed to notify and disclose the arrest to the Department until Defendant MANDRELL directly confronted and questioned her approximately one month later. Further, in a September 23, 1996, telephone conversation with VICKI THOMAS, Defendant MANDRELL gained additional information of the family dynamics and had actual knowledge of the discord and lack of stability in the Thomas family household; specifically that EDDIE THOMAS was engaged in an extra marital affair and that VICKI THOMAS had a propensity for and exhibited denial behavior concerning the conduct of EDDIE THOMAS.

48. At all times material hereto, Defendants MANDRELL and PEASE acted recklessly in failing to amend the Department's Case Plan in accordance with § 39.601 (d), Florida Statutes and remove L.T. from placement with EDDIE THOMAS and VICKI THOMAS. At this point in time, the home of EDDIE THOMAS and VICKI THOMAS, whether together or individually, definitively ceased to be a legitimate relative placement for the minor female child L.T. due to (1) the criminal felony arrest and the State

Attorney information charging EDDIE THOMAS with sexually abusing a female child; and (2) the further cover-up and denial by VICKI THOMAS.

49. On or about August 22, 1996, and further, on or about September 9, 1996, Defendant MANDRELL and PEASE acted with reckless disregard in failing to immediately remove L.T. from placement in the home of EDDIE THOMAS and VICKI THOMAS based upon the arrest of EDDIE THOMAS for child sexual abuse.

50. At all relevant times hereto, the Defendants MANDRELL and PEASE and the Department and other Departmental employees were aware that under §435.045, Florida Statutes, a person would be completely barred from consideration as a prospective adoptive or foster parent, where the mandatory §435.04, F.S., level 2 screening security check revealed that a person was found guilty (regardless of adjudication, or entered a plea of nolo contendere) of an offense under Chapter 800, including §800.04, F.S. which provided that it is a criminal felony of the second degree to commit a lewd, lascivious, or indecent assault or act upon or in presence of a child under the age of 16 years. In that regard MANDRELL and PEASE acted with reckless disregard in continuing the placement of L.T. in the Thomas home after notice of the above.

51. Despite having knowledge that EDDIE THOMAS was charged and being prosecuted by the State Attorney's Office in a felony criminal trial on charges of child sexual abuse, the Defendants MANDRELL and PEASE with reckless disregard continued to advocate and recommend that L.T. remain in the Care and Custody of the THOMAS Household and failed to immediately remove L.T., as demanded by L.T.'s biological mother, from the unsafe environment, reckless and wrongful placement. Defendant

MANDRELL and PEASE were also aware that EDDIE THOMAS had regular contact with L.T. during this time period despite a Court Order prohibiting such contact.

52. At all relevant times hereto, upon finding out and despite their knowledge that EDDIE THOMAS was arrested and awaited state criminal prosecution for felony child molestation under §800.04 of the Florida Statutes, Defendant MANDRELL and PEASE rated L.T.'s continued placement with her uncle, EDDIE THOMAS, as a "Low/Risk Factors Present/Controlled," and specifically marked "NO" when given the opportunity to set in place a "Safety Plan" for L.T. and her younger brother. Institution of a Safety Plan would have addressed the issue of L.T.'s safety during the time of EDDIE THOMAS' arrest as he awaited his criminal felony trial for sexual molestation of a 13-year old child and would have otherwise caused L.T. to be removed from the home of EDDIE THOMAS and VICKI THOMAS.

53. On or about August 1996, Defendant MANDRELL made the following notation in the Department's "Assessment of Family Strengths and Risk" evaluation demonstrating Defendants deliberate failure to investigate concerns of safety and wellbeing of the minor, female, L.T.

> "Eddie Thomas alleged sexual molestation on a child under 12 poses some red flags but due to relative and spouse in the neighborhood there are no alarms. Vicki & Eddie loves their children and have provided for these children and Vicki would not allow anything to harm these children."

Eddie Thomas Violation of No-Contact With L.T. Court Orders

54. At all relevant times hereto, Defendant MANDRELL and PEASE acted with reckless disregard by failing to devise a Safely Plan to ensure that EDDIE THOMAS and VICKI THOMAS abided by and complied with the Court Order that mandated

EDDIE THOMAS not reside in the Thomas home and have absolutely No-Contact with the minor, female child, L.T..

55. At all relevant times hereto, the Circuit Court of Gadsden County ordered that L.T. could remain in the Thomas home with VICKI THOMAS[4] as recommended by the Defendants MANDRELL and PEASE on the condition that EDDIE THOMAS (1) did not reside in the Thomas home; and (2) have absolutely No-Contact with his toddler female niece, L.T., as he continued to await trial on criminal felony charges of child sexual molestation. Further Defendants had actual knowledge that EDDIE THOMAS directly violated the No-Contact Court Order by returning to the home and having contact with his minor niece, L.T.. In her Departmental Protective Services Casework Activity Log, Defendant MANDRELL documents the following (1) catching EDDIE THOMAS at the home and at a time when L.T. was present; (2) herself, a Departmental case worker, personally overriding a clear and absolute No-Contact Order issued by the Circuit Court documenting Defendant MANDRELL personally giving permission for EDDIE THOMAS to stay at the home with L.T. since he was already "there now;" (3) failing to protect and immediately remove the female child, L.T. from placement with VICKI THOMAS; and (4) herself, Defendant MANDRELL, simply just going on and leaving the Thomas house upon completing her Home Visit, while knowing that she was leaving EDDIE THOMAS there at the home with L.T. in violation of the Court Order. Defendant MANDRELL ignored A No-Contact Order from the Gadsden County Circuit Court and with reckless disregard and failed to notify the Judge or the State Attorney's office of

[4] In securing the Order to retain L.T. in the current placement in the Thomas household even though EDDIE THOMAS was awaiting criminal trial, Defendant MANDRELL recklessly and falsely represented to the Court that VICKI THOMAS was the maternal aunt of L.T., when in fact VICKI THOMAS was not a blood relative at all.

EDDIE THOMAS' violation of the Court Orders. In Defendant MANDRELL'S own handwriting, she demonstrates her cavalier handling of the matter in the following notation:

> "He [EDDIE THOMAS] stated I hope it's okay [to be here in direct violation of the Court Order]. Counselor [Defendant, JUDY MANDRELL] told him he was there now but reminded him of the Court Order."

56. Despite EDDIE THOMAS' violation of the Order to be out of the home and to further have No Contact with his young female niece, Defendant MANDRELL, during that same encounter, further takes the matter into her own hands and continues to dilute the authority of the Court Order (which was issued to protect L.T. as EDDIE THOMAS awaited felony criminal prosecution on child sex abuse) by recklessly encouraging and assuring EDDIE THOMAS' wife, VICKI THOMAS, that "when we go back to Court in January, 97 we could ask the Judge to allow supervised visitation." Just above her signature, Defendant MANRELL writes, "This appears to be a very good placement for these children. All of their needs are being adequately provided for."

57. At all material times hereto, Defendants MANDRELL and PEASE were aware that Eddie Thomas was the sole bread winner for the "Thomas family," and that VICKI THOMAS had no job and no means of support, and therefore VICKI THOMAS had a financial incentive to allow EDDIE THOMAS back into the home while the criminal sexual charges were pending despite her representation to Defendant MANDRELL that VICKI THOMAS "would not allow EDDIE back into the home until he proves" to her that he did not do it.

58. Defendants MANDRELL and PEASE with reckless disregard failed to immediately and by emergency motion or petition request the removal of L.T. from placement with EDDIE THOMAS and VICKI THOMAS, when EDDIE THOMAS and VICKI THOMAS materially violated a condition of placement, imposed by Court Order, that EDDIE THOMAS have absolutely No Contact with L.T. as he awaited state prosecution in his criminal trial for the sexual abuse of a separate minor child.

59. At all material times hereto it was contrary to Departmental policy and practice to leave a child in a home in an at risk situation where a possible sexually offending adult refuses to cooperate by refusing to abide by a Court Order, or refuses to leave the home and instead remains and/or returns the home repeatedly after being asked to leave.

60. At all relevant times hereto, Defendants MANDRELL and PEASE recklessly failed to verify that EDDIE THOMAS had moved out of the Thomas house and whether he was actually living in his "mother's garage" or "shed" as represented by VICKI THOMAS, and in fact having no contact with L.T. pursuant to the Court Order. Further, Defendants MANDRELL and PEASE recklessly failed to verify and/or were aware or should have been aware that, the exact location of EDDIE THOMAS' mother's garage or shed, in which EDDIE THOMAS was purported to be residing, was actually in the back yard of VICKI THOMAS' own home and therefore EDDIE THOMAS had full and complete access to the minor L.T.. Defendants MANDRELL and PEASE were aware that the garage was immediately behind the Thomas home where L.T. resided. In the Home Study which was conducted by the Defendants MANDRELL and PEASE, prior to EDDIE THOMAS arrest for sexual abuse of a minor, Defendants MANDRELL and

PEASE documented that that EDDIE THOMAS' parents lived adjacent to the Thomas home where L.T. resided. Furthermore, in a 2002 felony case of Public Assistance Fraud prosecuted by the State of Florida against VICKI THOMAS, VICKI THOMAS again claimed that EDDIE THOMAS had moved out of the Thomas home and again that EDDIE THOMAS was living in his parent's shed. In that criminal investigation, when asked, VICKI THOMAS acknowledged to the investigator that the garage or shed that EDDIE THOMAS was purported to live in was actually located in the back of EDDIE THOMAS' parent's home which is also in the back of VICKI THOMAS' own home. The State Attorney, in prosecuting Vicki Thomas in 2002, for Public Assistance Fraud, submitted evidence that contrary to VICKI THOMAS' applications and statements (i.e., that EDDIE THOMAS had been living in his "mother's shed"), and showed instead that EDDIE THOMAS had been all along living in the Thomas household with VICKI THOMAS, L.T., and her younger brother. Furthermore, Defendant MANDRELL establishes, with her own handwriting and signature that she, Defendant MANDRELL, has actual and direct knowledge of exactly where EDDIE THOMAS' mother lived. In the Protective Services Casework Activity Log, dated 10/21/96 (post-arrest and pre-sexual abuse trial of EDDIE THOMAS), while going to VICKI THOMAS and EDDIE THOMAS' home during a Home Visit to see L.T., Defendant MANRELL instead simply goes next door to EDDIE THOMAS' mother's home to see the children and then records the following:

> Counselor [Defendant MANDRELL] saw [L.T. and her younger brother] at the home [of] Vicki's mother-in-law [aka Eddie Thomas' mother].

61. At all material times hereto it was contrary to Departmental policy and practice to leave a child in a home where a possible offending adult refuses to cooperate

by refusing to leave the home and instead remains and/or returns the home after being asked to leave.

62. At all times relevant hereto, Defendant MANDRELL and PEASE with reckless disregard failed to immediately remove L.T. from placement with EDDIE THOMAS and VICKI THOMAS as Defendants were aware or should have been aware that EDDIE THOMAS' supposed residing in the garage in the back of his home did not suffice for or constitute removal of EDDIE THOMAS from the Thomas household while EDDIE THOMAS awaited criminal trial for felony sexual assault of a 13-year-old child.

63. Further, this incident established that VICKI THOMAS would lie to protect EDDIE THOMAS, and therefore VICKI THOMAS was unsuitable as a custodian for placement. Defendants MANDRELL and PEASE recklessly ignored the fact that EDDIE THOMAS' supposed and alleged residing in his own back yard shed actually constituted a refusal by EDDIE THOMAS to leave his household despite the fact he was asked to leave. EDDIE THOMAS' leaving the household was a condition set by Court Order for any continual placement of L.T. in the Thomas household. Defendant's MANDRELL and PEASE recklessly failed to exercise their duty to immediately protect L.T. from EDDIE THOMAS and VICKI THOMAS and remove L.T. to ensure her safety and wellbeing.

Judicial Review Social Study Report / Case Plan Update

64. On January 6, 1997, four months after EDDIE THOMAS' arrest for sexual molestation of a minor female child and with his criminal trial pending in April of 1997, more than four months away, Defendants MANDRELL and PEASE, filed a Judicial Review Social Study Report / Case Plan Update. **The Defendant's MANDRELL and**

PEASE with reckless disregard failed to file an Amended Case Plan addressing EDDIE THOMAS even though they had actually witnessed and documented that EDDIE THOMAS was in contact with L.T. in violation of a "No Contact" Court Order pending EDDIE THOMAS' criminal child sexual molestation case.

65. Defendants MANDRELL and PEASE again failed to address the changed circumstances of the minor, female child L.T., when they declined to file an Updated Case Plan and by their continued assertion and recommendation that the 3-year-old female child, L.T., be placed in the "long-term relative placement" by 7/1/97 into the care and custody of EDDIE THOMAS and VICKI THOMAS. Furthermore, Defendants MANDRELL and PEASE failed to prepare a Safety Plan and place such plan into effect to ensure the physical, mental, and emotional safely, health and well being of L.T.

Eddie Thomas' Plea to Lewd and Lascivious Acts on a Child Under the age of 16 and Status as a Sexual Offender

66. At all relevant times hereto, Defendants MANDRELL and PEASE, were aware that EDDIE THOMAS plead nolo contendere and was sentenced to 5 years probation as a Sexual Offender for the criminal felony of committing lewd and lascivious acts on a minor under 16 years of age in accordance with §800.04, Florida Statutes. His plea of nolo contendere under §944.607 and §943.0435, Florida Statues constituted a conviction under the Sexual Offender laws in the State of Florida. All Defendants were also aware that EDDIE THOMAS was subject to Sexual Offender probation including Sexual Offender counseling. All Defendants were aware that EDDIE THOMAS was considered a Sexual Offender and as of 2002, must publicly register as such under the laws of the State of Florida. Despite this knowledge, Defendants MANDRELL and

PEASE continued to place and recommend placement of the minor female, L.T. (both L.T. and her younger brother were then under 4-years of age; L.T. was a 2-1/2 year-old toddler and her younger had brother was an 1-year-old infant), in this patently unsafe environment with her Sexual Offender uncle EDDIE THOMAS and his wife, VICKI THOMAS. Further, Defendant MANDRELL and PEASE knew or should have known that VICKI THOMAS would lie to the Department to protect EDDIE THOMAS at the expense of L.T. and her younger sibling.

67. At all relevant times hereto, §39.601 Florida Statutes, provided that the Department had an obligation to submit to the Court an updated Case Plan when there occurred "changing circumstances," and that the modifications to the Case Plan would be based on the changed circumstances. There were numerous changes in L.T.'s circumstances as a result of the acts of EDDIE THOMAS and VICKI THOMAS which would have required an Updated Case Plan. Defendants MANDRELL and PEASE with reckless disregard failed to amend L.T.'s Current Situation, Other Pertinent Information, compliance/Non-Compliance with the Case Plan, Recommendations, Reasons for Recommendations and Goals. The primary change requiring an updated Case Plan was the designation of EDDIE THOMAS as a Sexual Offender and his plea to felony criminal misconduct with a minor child.

68. Defendants MANDRELL and PEASE were aware that reckless placement of L.T., a minor female child, in the home of her Sexual Offender uncle is a home situation that indicated a substantial and immediate danger to L.T.'s physical, mental, emotional or sexual, wellbeing, health and safety and could not be mitigated by the provision of preventive services and further that L.T. could not safely remain in the home

because there were no preventive services that could ensure the health and safety of the female child L.T.

69. At all relevant times hereto, Defendant PEASE incredibly continued to act with reckless disregard and to certify and approve, as a supervisor, the recommendation that L.T. be adopted by her Sexual Offender uncle. When Defendants MANDRELL and PEASE determined that adoption was would violate Florida Statute §435.045 and Departmental policy and procedure based upon the Sexual Offender status of EDDIE THOMAS, Defendant PEASE recklessly certified and approved the plan to circumvent the statutory prohibition against placing L.T. for adoption with her Sexual Offender uncle by instead certifying and approving the "long-term relative placement" of the minor female child L.T. until she reached the age of majority with EDDIE THOMAS her Sexual Offender uncle. Defendant PEASE then immediately removed L.T. from Protective Services protection. In the Department's Client Progress Note, Defendant MANDRELL handwrites, "We all discussed how the Department could not recommend the Thomas' as possible placement due [the rest of the sentence was either never finished or later deleted].

70. At all relevant times hereto, §948.03, the Department and its other employees and the Defendants MANDRELL and PEASE were aware that Florida Statutes provided that probationers whose plea of nolo contendere for committing the crime in violation of F.S. 800.04 (lewd and lascivious acts against a child under 16 years of age) undergo outpatient counseling and must actively participate in and successfully complete Sex Offender treatment program with a therapists specifically trained to treat Sex Offenders.

71. Defendant PEASE with reckless disregard failed to follow through and take appropriate and/or corrective action such as immediate removal of the minor L.T. from placement with her Sexual Offender uncle when Defendant PEASE, as supervisor, had actual knowledge that Defendant MANDRELL had failed to contact EDDIE THOMAS' probation officer to determine whether EDDIE THOMAS was complying with his terms of Probation and undergoing Sexual Offender Counseling and Evaluation. Defendant MANDRELL and PEASE further failed to obtain Progress Reports from EDDIE THOMAS' probation officer. Despite this knowledge, Defendant PEASE continued to recommend placement of L.T. with her Sexual Offender uncle. The Department's record regarding L.T. makes no mention of EDDIE THOMAS' completed Sexual Offender Counseling.

72. Defendant PEASE further recklessly failed to follow through and take appropriate and/or corrective action against Defendant MANDRELL although Defendant PEASE was aware of Defendant MANDRELL's additional failure to maintain complete files on L.T. and the crucial circumstances surrounding L.T.'s placement even after Defendant PEASE made numerous requests that Defendant MANDRELL place missing Court Orders into L.T.'s file. Furthermore, while Court Orders referencing EDDIE THOMAS' Sexual Offender status were, as Defendant PEASE notes, missing from L.T.'s placement files, Defendants MANDRELL and PEASE would none-the-less recklessly fail to disclose and therefore mask EDDIE THOMAS' convicted Sexual Offender status in official documents presented to the Court. In documents submitted to the Court such as the Departmental Judicial Review Social Study Reports, Defendants MANDRELL and PEASE employ only the generic term the "Agency's policy regarding criminal history," in

recklessly avoiding disclosure that EDDIE THOMAS was in fact a convicted Sexual Offender of a minor child. Upon recklessly failing to disclose and therefore masking and covering up EDDIE THOMAS' convicted Sexual Offender status as being a crucial part of his criminal history, Defendants MANDRELL and PEASE recklessly continue to advocate and support their recommendation for custodial control and long-term-permanent-placement of the 4-year-old female L.T with her Sexual Offender uncle and offer the following reason:

> "[VICKI THOMAS and EDDIE THOMAS] have really taken the children as their own. They would like to adopt these children. However, it is not in the best interest to pursue adoption. Because the Agency's policy regarding criminal history, the Department can not recommend these relatives as adoptive parents for these children. Nevertheless, these relatives have agreed to keep the children until the age of majority. Supervision by the Department is no longer needed to assure the safety of these children. **Therefore, the Department is recommending [L.T.] and [L.T.'s younger brother] be left in the long term permanent placement of Vicki and Eddie Thomas; and that supervision by the Department be terminated**." (emphasis not added; underscore and bold appear as in original)

73. Defendants MANDRELL and PEASE with gross and reckless disregard, in essence, advocated on behalf of the Department that supervision by the Department is no longer needed to assure the safety of these children with EDDIE THOMAS, a Sexual Offender, and furthermore that the Sexual Offender uncle be granted wrongful Long-Term Permanent care and custody of the minor, female, L.T.

74. At all relevant times hereto, the Defendants MANDRELL and PEASE and the Department and other Departmental employees were aware that §39.508, Florida Statutes provided that Protective Supervision of an authorized agent of the Department in the home of a relative of the child or of another adult, may continue until a child reaches the 18 years of age.

75. With knowledge that EDDIE THOMAS was a convicted Sexual Offender, Defendant MANDRELL acted with reckless disregard for the safety of L.T. by recommending to the Circuit Court for Gadsden County that EDDIE THOMAS be permitted to reside in the THOMAS home and have unsupervised visitation with L.T. which resulted in the Court, in ignorance of the true facts, adopting Defendant MANDRELL'S recommendations.

76. On or about May 9, 1997, EDDIE THOMAS became a convicted Sexual Offender at the time he plead no contest to the charge of Lewd Assault of Child under the age of 16 pursuant to F.S. 944.606. EDDIE THOMAS was sentenced to five years probation, sexual offender evaluation, and sexual offender counseling. EDDIE THOMAS was also placed under the supervision of the Department of Corrections.

77. At all relevant times hereto, the Department and it's other employees and the Defendants MANDRELL, PEASE, JOHNSON, and SPIVEY were aware that §944.607, Florida Statutes provided that "Sexual Offender" is defined as a person who has been "convicted" of the criminal offense under §800.04, and that "Convicted" means a determination of guilt which is the result of a plea of nolo contendere, regardless of whether adjudication is withheld, and that the Sexual Offender shall provide his identifying information and residential address with law enforcement as a "Sexual Offender."

78. At all relevant times hereto, the Department and it's other employees and the Defendants MANDRELL, PEASE, JOHNSON and SPIVEY were aware that §943.0435, Florida Statutes provided that all Sexual Offenders register identifying information and residential address with law enforcement as a "Sexual Offender upon

release from probation, and that "Sexual Offender" is defined as a person who has been "convicted" of the criminal offense under § 800.04, and that "Convicted" means a determination of guilt which is the result of a plea of nolo contendere, regardless of whether adjudication is withheld. Each Defendant continued to allow the placement of L.T. with a Registered Sexual Offender.

79. At all relevant times hereto, Defendants MANDRELL, PEASE, JOHNSON and SPIVEY were aware that EDDIE THOMAS was arrested for and then "convicted" under Florida Statutes §944.607 and §943.0435 as a felony Sexual Offender of a minor child. Despite this knowledge, Defendants, individually and collectively, took no action to protect and remove L.T., from her then current placement with her Sexual Offender paternal great uncle.

80. The Defendants MANRELL, PEASE, JOHNSON and SPIVEY were aware or should have been aware that the serious risk posed by the Registered Sexual Offender status of EDDIE THOMAS, was at all times, amplified by his past history of (1) failure to pay child support; and (2) criminal drug history. Further Defendants were aware that the female caretaker, VICKI THOMAS' past history of (1) abandonment and abuse of her own natural children; (2) having numerous suits filed by the Department against her for failure to pay child support for her natural children; and (3) her own childhood history of being a sexual abuse survivor, as well as the tender ages of L.T. and her younger brother, in effect, left L.T. and her younger brother alone at the mercy of EDDIE THOMAS and VICKI THOMAS. However, Defendants MANDRELL and PEASE with reckless disregard advocated and further proceeded to mislead the Court by formally recommending to the Court that L.T. be placed in the "Long-Term Permanent

Placement" and care and custody of her "convicted" Sexual Offender uncle, EDDIE THOMAS and that all protective services be terminated.

WITH RECKLESS DISREGARD, DEFENDANTS FAILED TO THOROUGLY INVESTIGATE AND IMPROVIDENTLY CLOSED A 2003 ABUSE HOTLINE REPORT WHICH INCLUDED ALLEGATIONS OF COCAINE/CRACK COCAINE USE BY THE CARETAKERS AND THEN CONTINUED THE RECKLESS PLACEMENT OF L.T

81. At all relevant times hereto and on or about June 2, 2002, EDDIE THOMAS became a SEXUAL OFFENDER required to register as a Sexual Offender with the Florida Department of Law Enforcement for a felony sex crime against a minor child under the Laws of the State of Florida.

82. At all relevant times hereto, Defendant JOHNSON and SPIVEY had actual knowledge of and were aware that EDDIE THOMAS was a REGISTERED SEXUAL OFFENDER in the State of Florida. Despite such knowledge, Defendants JOHNSON and SPIVEY continued to allow the placement of L.T. with EDDIE THOMAS and VICKI THOMAS.

83. On March 24, 2003, an anonymous abuse report was called into the Florida Abuse HotLine with contained the following allegations:

> "The children's uncle returned back into the home. He is a proven child sex offender and is not supposed to be around children. He and the aunt are using cocaine. They take the children with them when they purchase the drugs. It is unknown if they use the drugs in front of the children, but both adults have lost a lot of weight due to their drug use. The aunt's own children were taken away from her by her ex husband. They are not fit caretakers."

84. At all relevant times hereto, Defendant JOHNSON and SPIVEY recklessly "Closed" and failed to thoroughly investigate the 2003 Florida Abuse HotLine Report

alleging that L.T. and her younger brother were endangered specifically with regard to sexual abuse, illegal substance exposure, and possible neglect including the inability of the custodians to protect the child and ensure the safety of the children. The facts obscured, omitted, missed or ignored in the investigation that the Defendants JOHNSON and SPIVEY performed with reckless disregard formed the basis for the Department's erroneous conclusion that L.T. was not in danger of substance abuse exposure and that L.T.'s physical, emotional, mental, and sexual safety and wellbeing were not endanger in 2003 as the Defendants approved and kept L.T. in the Departmental placement with her Registered Sexual Offender uncle.

a. Warning of Potential Sexual Abuse Given Criminal Histories and Eddie Thomas' Specific History And Status As A Registered Sexual Offender

85. At all relevant times hereto, as the Child Protective Investigator, Defendants JOHNSON and SPIVEY had actual knowledge and was aware, at the time of her investigation into the 2003 Abuse Hotline call which reported children in danger of (a) sexual abuse; (b) substance abuse exposure; and (c) failure to protect or neglect due to unfit custodians and that EDDIE THOMAS was a Convicted and Registered Sexual Offender of a minor child under the Laws of the State of Florida on April 9, 1997. Despite this knowledge, Defendants JOHNSON and SPIVEY with reckless disregard failed to disclose the nature of the criminal histories of EDDIE THOMAS (Registered Sexual Offender) and VICKI THOMAS in her Investigative Decision Summary Narrative

("IDS") and incredibly dismissed them cavalierly and summarily with the following notation:

> **"THE CRIMINAL CHECKS FOR THE CAREGIVERS SHOWED SOME ARRESTS WHICH WERE MADE AFTER THE CHILDREN WERE PLACED IN THE HOME BUT THESE CRIMINAL CHARGES DOES [sic] NOT PLACE THE CHILDREN AT RISK."**

86. At all relevant times hereto, Defendant JOHNSON and SPIVEY knew or should have known, upon completing mandatory criminal history checks, the specific nature of arrests and convictions of EDDIE THOMAS and VICKI THOMAS' that were made before and "after the children were placed." The arrests and convictions which Defendant JOHNSON recklessly failed to disclose and further recklessly failed to address in her IDS include the following:

(a) Convicted Sexual Offender of a minor child 1997 – EDDIE THOMAS (5-years probation)

(b) Narcotic Equipment Possession 1983 – EDDIE THOMAS (3-years probation)

(c) Grand Larceny 2000 – VICKI THOMAS

(d) Public Assistance Fraud 2002 – VICKI THOMAS (1-year probation)

Despite this knowledge and the Abuse Hotline report, Defendants JOHNSON and SPIVEY with reckless disregard continued to place L.T. in the care and custody of VICKI THOMAS and EDDIE THOMAS.

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87. At all times material hereto, Defendants JOHNSON and SPIVEY knew or should have known that the nature of the arrests and convictions of VICKI THOMAS and of L.T.'s uncle, EDDIE THOMAS, including the fact that EDDIE THOMAS was a Registered Sexual Offender, put the female minor, L.T. at risk and specifically at risk for sexual abuse.

88. At all times relevant hereto, the Defendants JOHNSON and SPIVEY recklessly failed to openly disclose and address EDDIE THOMAS' criminal history as a Sexual Offender in her Investigative Decision Summary Narrative after conducting her investigation and evaluation of the 2003 Abuse HotLine report.

89. At all relevant times hereto, the Defendants JOHNSON and SPIVEY and the Department and other Departmental employees were aware that §435.045(1)(a)(1), Florida Statutes provided that there is a complete bar to placement of a child with any person where the mandatory §435.04, F.S., level 2 screening check of their criminal records reveals any felony conviction for child abuse or a crime against children including rape or sexual assault.

90. Despite their acknowledgment of EDDIE THOMAS' status as a REGISTERED SEXUAL OFFENDER, Defendants JOHNSON and SPIVEY with reckless disregard failed to perform a contemporaneous, independent, thorough inquiry and took no action to have L.T. assessed and evaluated for treatment as a possible sexual abuse victim. Defendants JOHNSON and SPIVEY's report appeared to take reckless satisfaction in finding that EDDIE THOMAS, the Registered Sexual Offender, was "NO LONGER ON PROBATION." Further, Defendants JOHNSON and SPIVEY eschew conducting a current and independent investigation into possible sexual abuse and further

justify their superficial and inadequate investigation by relying on 5-year-old probationary records regarding the terms of EDDIE THOMAS' plea. Defendants JOHNSON and SPIVEY recklessly place particular emphasis and reliance on 5-year-old probationary records that indicate that EDDIE THOMAS was prohibited from contacting the child victim, but not children in general. Furthermore, when EDDIE THOMAS denied that his probation required sexual offender counseling, Defendants JOHNSON and SPIVEY simply accept his statement and recklessly fail to inquire how he could not have undergone counseling as is mandatory under the laws of the State of Florida for Convicted Sexual Offenders and specific to his plea agreement. With reckless disregard, Defendants JOHNSON and SPIVEY further failed to request progress reports on EDDIE THOMAS' sexual offender counseling from the Department of Corrections which would have verified whether EDDIE THOMAS had in fact complied with his probationary terms and successfully attended and completed the Court Ordered mandatory sexual abuse counseling and whether EDDIE THOMAS received sexual offender treatment.

91. Defendants JOHNSON and SPIVEY, in conducting the 2003 Child Protection Teams investigation, recklessly failed to assess the current situation and recklessly failed to consider or determine if L.T., a female now 9 years of age, was in danger of being sexually abused by her uncle, EDDIE THOMAS. In 1997, EDDIE THOMAS had plead to the sexual abuse of the 13-year-old daughter of his girlfriend. Defendants JOHNSON and SPIVEY further, with reckless disregard, failed to remove the minor L.T. from placement with her Registered Sexual Offender uncle, EDDIE THOMAS even after L.T. had reached the age puberty.

b. Numerous Warning of Cocaine/Crack Cocaine Use

92. In responding to the 2003 Abuse HotLine that, inter alia, reported child substance abuse exposure involving cocaine/crack cocaine, and specifically alleged:

> "HE [EDDIE THOMAS] AND THE AUNT [VICKI THOMAS] ARE USING COCAINE. THEY TAKE THE CHILDREN WITH THEM WHEN THEY PURCHASE DRUGS,"

the Defendants JOHNSON and SPIVEY recklessly failed to conduct a competent and complete investigation including requesting a TOX screen for illegal drugs, failed to employ proper interviewing techniques by interviewing the children in the presence of VICKI THOMAS, and recklessly and wrongfully assessed relevant facts, which acted to conceal the criminal history of the custodians, and family strength and risks. The Defendant JOHNSON and SPIVEY reckless disregard directly resulted in the Department's ignoring safety threats present to L.T. as well as continuing to approve L.T.'s placement in the unsafe environment of illegal drug use with her uncle, a Convicted and Registered Sexual Offender of a 13-year old child. In dismissing the Abuse Hotline allegations of illegal drug use, Defendant JOHNSON and SPIVEY simply concludes:

> "NO FINDINGS OF SUBSTANCE EXPOSED CHILD DUE TO THE FACT THAT THE CX [children] DENIED THE ALLEGATIONS AND THAT THE CAREGIVERS TESTED NEGATIVE ON A UA."[5]

93. Defendant JOHNSON recklessly conducted the investigation and the questioning of L.T. and her younger brother in the face-to-face, office visit which resulted in covering up cocaine/crack cocaine and illegal drug use by VICKI THOMAS and the

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5 See Paragraph 101, infra. Although the report suggests EDDIE THOMAS and VICKI THOMAS both provided UA's, L.T.'s Departmental file does not contain the results of any UA for EDDIE THOMAS leading to the belief that either EDDIE THOMAS did not submit to a UA or that his UA was removed from the Departmental file prior to its production to L.T.'s counsel.

Sexual Offender uncle, EDDIE THOMAS as witnessed by L.T.. In that office appointment (which had been arranged by VICKI THOMAS on the preceding day at the request of Defendant JOHNSON in order to specifically address the Hotline allegations of illegal drug use and sexual abuse), VICKI THOMAS was, at all times present with L.T. and her younger brother as Defendant JOHNSON conducted her interview with the both children. Both L.T. and her brother, in VICKI THOMAS' continual presence, dutifully denied that they ever saw EDDIE THOMAS or VICKI THOMAS use illegal drugs or that they had been sexually abused. This interviewing technique was known within the Department to be unreliable.

94. The 2003 Abuse HotLine report was not the first time that the Department was warned about caretaker drug use. The drug use by EDDIE THOMAS and VICKI THOMAS was ignored as early as 1996, when the biological mother of L.T. had warned Defendant MANDRELL that she had heard that VICKI THOMAS and EDDIE THOMAS were doing drugs. At that time Defendant MANDRELL specifically recorded that "[The biological mother of L.T., VALERIE MCSWAIN] wanted a drug test on [VICKI THOMAS and EDDIE THOMAS]. As set forth above, Defendant MANDRELL recklessly failed her duty to inquire or investigate the serious charge of drug use by the custodians of L.T. and documents her response to L.T.'s biological mother as simply stating:

> "This Counselor [Defendant MANDRELL] had no reason to believe that Vicki and Eddie were using drugs; and that she just couldn't recommend someone to have a drug test."

95. Without performing any inquiry and despite EDDIE THOMAS' prior arrest and a probationary term for Narcotic Equipment Possession (which Defendants

knew or should have known), Defendant MANDRELL simply ignored and dismissed the biological mother's [VALERIE MCSWAIN'S] warning and request that her minor child, L.T., be removed from the custody and care of EDDIE THOMAS and VICKI THOMAS. In Defendant MANDRELL'S own handwriting she documents in 1996 her reckless and callous handling of the matter in the following notation:

> "No one was home . . . Counselor has no reason to believe Eddie & Vicki are using drugs all of a sudden."

96. Defendant MANDRELL never made any additional inquiry into the allegation of drug use and Defendant PEASE, as supervisor, signed off her approval. The fact that the biological mother VALERIE MCSWAIN continuously provided correct and accurate negative information regarding the Department's chosen caretakers of her child, LT., would be verified only three days later, when in 1996, VALERIE MCSWAIN additionally and correctly inform Defendant MANDRELL that EDDIE THOMAS had been arrested for "sexually molesting a little girl." VALERIE MCSWAIN, the biological mother, further insisted that she "wanted her daughter out of the house [the home of EDDIE THOMAS and VICKI THOMAS]." Yet again, Defendants MANDRELL and PEASE continued to recklessly ignore the biological mother's' warning regarding not only the custodian's drug use but also her specific request to remove her minor daughter, L.T., from placement with EDDIE THOMAS, arrested for criminal felony sexual molestation of a child, and VICKI THOMAS.

97. Moreover, in less than two years' time from the 2003 HotLine call, on February 24, 2005, in a private meeting, VICKI THOMAS was removed from the

interview room and separated from L.T.[6], the minor L.T. would reveal to the Gadsden County Sheriff's Office details of the cocaine/crack cocaine use she had witnessed while placed with VICKI THOMAS and EDDIE THOMAS. In that interview, L.T. relayed to the Victim Advocate that she had "seen them [EDDIE THOMAS and VICKI THOMAS] have "white powder stuff on a mirror and holding a straw to their nose."" LT. further stated that they "role green stuff up in brown paper and smoke it." L.T. asked the interviewer what roaches were and stated that VICKI THOMAS smoked "roaches." In addition to revealing that Mrs. Thomas told her not to tell anyone anything about Mr. Thomas, L.T. disclosed that she "got very bad whoopings, sometimes for accidents" with "whatever they [both EDDIE THOMAS and VICKI THOMAS] could find" including "broom handles, hands, shoes, car belts [seat belts], sticks, belts, and clothes hangers."

98. L.T.'s own witnessed accounts of exposure to illegal drug use would also be confirmed by the Forensic Interviewer, Lynne Wilson-Bruchet, during the 2005 sexual abuse investigation. That investigation was in response to L.T.'s crawling out a window in order to run away and escape from beatings and sexual abuse incest by her own uncle, EDDIE THOMAS. Defendant JOHNSON recorded that L.T. disclosed that Mr. Thomas takes white flour [i.e., baking flour] and gets a straw and sniffs it.

99. The forensic interviewer documented that L.T. stated that after using illegal drugs, Mrs. Thomas [VICKI THOMAS] goes to sleep, however, that Mr. Thomas

[6] Although L.T. was accompanied by VICKI THOMAS to the meeting with the Gadsden County Sheriff's Office, the Victim Advocate, would remove VICKI THOMAS from the room when L.T. was interviewed. The Victim Advocate noted, "During the interview with [L.T.], she seemed to be somewhat hesitant to talk. Inv[estigator] Turner and her mother [aka VICKI THOMAS] left the room." The Victim Advocate began by talking "about school and her home life in general." With VICKI THOMAS removed from the room, as L.T. engaged in the discussion, she began to cry and revealed her sexual abuse as she and the Victim Advocate started discussing the topic of L.T.'s home and her lived in home.

[EDDIE THOMAS] acts the same [as he always does], "mean." Further, L.T. stated to forensic interviewer, that VICKI THOMAS told her Aunt Dee-Dee in L.T.'s presence that she [VICKI THOMAS] was going to smoke a "roach." Moreover, L.T. revealed to forensic interviewer that "she does not want to live with either one of them because they [VICKI THOMAS and EDDIE THOMAS] hurt her by getting mad at her because she makes mistakes and she [VICKI THOMAS] "abuse" her by hitting her with anything she can find (hangers and chords)." Revealingly, in addition to the beatings, L.T. informs the forensic interviewer that Mrs. Thomas [VICKI THOMAS] told her not to tell anyone anything about Mr. Thomas [EDDIE THOMAS].

100. At all relevant times hereto, in Closing the 2003 investigation which alleged inter alia drug abuse exposure, Defendant JOHNSON recklessly dismissed the allegations and represented in *HomeSafenet* (under the heading "Refutes Maltreatment") that:

"BOTH [EDDIE THOMAS and VICKI THOMAS] UA [urinalysis] WERE NEGATIVE," and under Summarize Findings, the Defendant notated "NO FINDINGS OF SUBSTANCE EXPOSED CHILD DUE TO THE FACT THAT . . . THE CAREGIVERS TESTED NEGATIVE ON A UA."

101. However, Defendant JOHNSON'S only reference to an urinalysis was in Chron Notes dated 3/25/03, stating only that VICKI THOMAS "submitted to an UA" during an office visit; EDDIE THOMAS was not present at that office visit. By contrast, Defendant JOHNSON'S only face-to-face visit with EDDIE THOMAS was during a home visit and there was no notation that EDDIE THOMAS had or was scheduled to have a urinalysis in any record. Defendant JOHNSON simply allowed EDDIE THOMAS to deny to Defendant JOHNSON and Defendant JOHNSON accepted that he had never taken the children with him to buy drugs and that he never bought drugs. The

Department has not provided any record that EDDIE THOMAS had a urinalysis or results in response to the 2003 Abuse Hotline report alleging substance abuse exposure. Defendant JOHNSON simply accepted EDDIE THOMAS' explanation despite EDDIE THOMAS' past criminal drug history. Moreover, in 2005, EDDIE THOMAS personally admitted that he had used illegal drugs and additionally refused to undergo an urinalysis when requested. As a result of the reckless investigation and the attendant misrepresentations by Defendants JOHNSON and SPIVEY, the female minor L.T. was left in placement by the Department and exposure to illegal drug use by EDDIE THOMAS and VICKI THOMAS until 10-1/2-year-old L.T. crawled out a window and ran away to escape incest and sexual abuse from her uncle.

102. Furthermore, in the 2005 investigation, EDDIE THOMAS and VICKI THOMAS would each outright admit to Defendant JOHNSON that they smoke marijuana. EDDIE THOMAS further refused to submit to a urinalysis. At that time, L.T. was finally removed from the Thomas household due to verified CPT forensic findings that L.T. was a victim of sexual abuse by EDDIE THOMAS, her own uncle. L.T. would once again be put in Protective Services which had previously recklessly terminated in 2000 by Defendant's MANDRELL and PEASE. The Department would further check the box for "Drug use/abuse" attributable to the Caregiver/custodians and handwritten notations provided the following explanation in the Department's Case Transfer Staffing notes, specifically stating that "Vicki and Eddie Admitted to drug use."

c. Warning that Vicki Thomas Had Her Own Children Taken Away and Therefore Was An Unfit Caretaker

103. At all relevant times hereto, Defendants JOHNSON and SPIVEY recklessly investigated, failed to thoroughly follow up, and erroneously "Closed" the 2003 Abuse Hotline report alleging, inter alia, the following:

> "THE AUNT'S [VICKI THOMAS'] OWN CHILDREN WERE TAKEN AWAY FROM HER BY HER EX HUSAND. THEY [VICKI THOMAS and EDDIE THOMAS] ARE NOT FIT CARETAKERS,"

Defendant JOHNSON'S only investigative work into whether VICKI THOMAS had abandoned or lost custody of her own children consisted of Defendant JOHNSON'S acceptance of two self-serving statements made by VICKI THOMAS during the 3/25/2003 home visit resulting from the HotLine Complaint. Defendant JOHNSON'S mere acceptance of the statements she recorded in her Chrono Notes and failure to follow-up on VICKI THOMAS' explanation further demonstrates Defendant JOHHNSONS' deliberate failure to investigate concerns and the abuse report and the safety and welfare of L.T.. The Defendant's Johnson's Chrono Notes containing the interview notations are as follows:

> "CPI [Defendant JOHNSON] HAD F/F [FACE-TO-FACE] W/ [WITH] VICKI AND EDDIE . . . S/ VICKIE'S CHILDREN WERE NEVER TAKEN AWAY FROM HER. HER CHILDREN ARE GROWN. S/ SHE WAS MARRIED TO HER CHILDREN'S FX AFTER WHEN THEY GOT A DIVORCE, HER CHILDREN WENT WITH THEIR FX."

Defendant JOHNSON was in such a rush to dismiss the specific allegation involving child abandonment and/or neglect that Defendant JOHNSON accepted VICKI THOMAS' explanation without further consideration and completely failed to address this specific allegation within the Child Safety Assessment Investigative Report on *HomeSafenet.* Lastly, the falseness of VICKI THOMAS' representations and self-serving statements

concerning her natural children would have been readily apparent from a look at the public records of Gadsden County in the Clerk's Office.

104. Defendant JOHNSON with reckless disregard in conducting the investigation into the specific Child Abuse Hotline allegation concerning the circumstances under which VICKI THOMAS ceased to have custody of her own natural children, recklessly failed to make any inquiry beyond VICKI THOMAS' self-serving statements and thereby failed to conduct even a minimal check of public records or the Department's own records. Such a check would have determined that VICKI THOMAS had abandoned her three natural born children and had a history of not paying child support. Moreover, Defendant JOHNSON ignored and/or recklessly failed to determine that VICKI THOMAS had been repeatedly sued by Defendant JOHNSON'S own DEPARTMENT as a result of her failure to pay Court ordered child support for her natural children.

105. At all times relevant hereto, Defendants JOHNSON and SPIVEY were aware that VICKI THOMAS was then currently serving one year Probation for Larceny, however Defendants never disclose in *HomeSafenet* that VICKI THOMAS had actually been charged by the State with Florida for Public Assistance Fraud involving L.T..

106. Furthermore, VICKI THOMAS' propensity to (1) easily make misrepresentations of fact - even when confronted face-to-face by an authority figure such as a state employee; and (2) commit intentional fraud, were "cloaked" and obscured by Defendants JOHNSON and SPIVEY as they failed to disclose VICKI THOMAS' arrest and prosecution for "Public Assistance Fraud," and instead reported it under the more general and generic label of "Larceny" when they filled the name of VICKI THOMAS'

then current parole officer in *HomeSafenet* database. An arrest and prosecution for Public Assistance Fraud should, but for Defendant JOHNSON and SPIVEY'S reckless disregard have raised a whole host of other concerns involving the safety of L.T.. Furthermore, Defendant MANDRELL recklessly failed and completely omitted to report VICKI THOMAS' Public Assistance Fraud under section J. "Criminal Records: Criminal Record(s) Checks: 3. State (FDLE) in *HomeSafenet*.

d. Defendants Failed to Ascertain VICKI THOMAS' History of Being a Child Abuse Victim

107. At all relevant times hereto, Department employees, including Defendants MANDRELL, PEASE, JOHNSON, and SPIVEY were aware of the Studies and the Treatment Literature regarding childhood sexual abuse which supports the conclusion that "abuse survivors" often tend to have relationships with abusive partners and have poor boundaries. The Defendants were aware that a personal history of childhood sexual abuse and marital problems, as stated by the Department's clinical worker, "leads to the formation of family units with patterns of denial of abuse, poor modeling of and respect for healthy boundaries and role reversal for the children" and that such factors could result in the sexual abuse survivor's failure to protect a child being sexual abused.

108. Despite the knowledge of this literature, the Defendants MANDRELL, PEASE, JOHNSON and SPIVEY recklessly failed to acknowledge and ignored VICKI THOMAS and EDDIE THOMAS' marital problems[7] and further failed and continued to fail to ascertain or acknowledge VICKI THOMAS' past history of being a victim of child abuse. Even as late as April 05, 2005, Defendants JOHNSON and SPIVEY continued to

[7] The problems in the marriage were apparent as early as 1996 when EDDIE THOMAS abuses his "girlfriend's" 13-year-old child.

specifically state in both their Investigative Report for Child Safety Assessment and the Investigative Decision Summary Narrative that "The caregivers [VICKI THOMAS] has childhood history free of abuse and neglect," although the Department's own licensed clinical social worker documented VICKI THOMAS' childhood sexual abuse in a prior report concerning the "Comprehensive Behavioral Health Assessment" of L.T., **dated** March 31, 2005. In that report, the clinical worker specifically and directly addressed VICKI THOMAS' history as a sexual abuse survivor under three separate evaluation topics and stated:

> "The influence of socioeconomic status of this family, limited transportation and the dynamics of sexual abuse and denial need to be considered when working with the family."

In her Summary of Findings, the assessor warned that:

> "VICKI THOMAS' personal childhood abuse as well as her continued denial that her husband "ever touched" little girls even though he was convicted of lewd and lascivious behavior with a child under sixteen, were observations that "raise concerns for returning [L.T] to Mrs. THOMAS' care."

109. At all relevant times hereto, the Defendants MANDRELL, PEASE, JOHNSON, and SPIVEY consistently and recklessly failed to accurately record VICKI THOMAS' personal history of childhood sexual abuse in the Department's (1) 1995 HomeStudy; (2) numerous Judicial Review Social Study Reports spanning the years of 1995 - 1999; and (3) 2003 and 2005 Child Safety Assessment Investigative Reports ("CSA"). In determining suitability of Caregivers and assessing the safety of a child's environment and ability of custodians to protect a child, the investigator must accurately investigate and record in the CSA whether a Caregiver has a history of childhood sexual abuse as us required under the specified criteria: (1) "Safety Factors" (i.e., "Has a history

of domestic violence as a victim or possible responsible person); and (2) "Family Strengths and Concerns" (i.e., "Has a childhood history free of abuse and neglect"). The Defendants were aware or should have been aware of VICKI THOMAS' history of sexual abuse and the attendant "Safety Factors" were alarms designed to alert Defendants that L.T.'s physical, emotion, and sexual welfare were threatened. Defendants continued to recklessly recommend Long-term, Unsupervised Placement and/or continued placement of the minor female child L.T in the home of a Registered Sexual Offender and a victim of childhood sexual abuse.

2005 SEXUAL MOLESTATION OF L.T. BY HER CONVICTED AND REGISHTERED SEXUAL OFFENDER UNCLE, EDDIE THOMAS AND VICKI THOMAS' FAILURE TO PROTECT L.T.

110. After Defendants JOHNSON and SPRIVEY recommended to close the Hotline complaint, L.T. remained unprotected in the home of EDDIE THOMAS and VICKI THOMAS until March 24, 2005 when L.T. ran away from the home of EDDIE THOMAS and VICKI THOMAS.

111. On or about February 24, 2005, Defendant's MANDRELL, PEASE, JOHNSON, and SPIVEY'S reckless failure to protect the safety, health and welfare of L.T. culminated in L.T. running away and revealing to the Gadsden County Sheriff's office that she had been sexually abused by her own Uncle, the Registered Sexual Offender EDDIE THOMAS and that she was afraid of him. L.T. revealed that EDDIE THOMAS had repeatedly came into her room at night and would kiss her in her mouth and stuck his hands under her clothes and underneath her underwear, touching her with his hands on her "chest," "hiney," and her "front" and her uncle would tell her "don't tell mom." In anatomical drawings conducted in forensic setting, the minor L.T. indicated

the breasts, buttocks and the vagina were the areas where her uncle EDDIE THOMAS would touch. L.T. also advised that in the dark, her uncle, EDDIE THOMAS, took off his clothes and asked her to reach out, and L.T. stated that she felt something "squishy" and "wet" but did not know what she was being asked to touch. L.T. also revealed that when she confided in her aunt, VICKI THOMAS, L.T. stated that "he [EDDIE THOMAS] did whoop me when I told." L.T. had been repeatedly subjected to incest and sexually abused four to six times per week by EDDIE THOMAS, a registered Sexual Offender, repeatedly beaten and exposed to drug use by EDDIE THOMAS and VICKI THOMAS including cocaine/crack cocaine, and further repeatedly was administered spankings by EDDIE THOMAS after confiding with VICKI THOMAS that she had been sexually abused by EDDIE THOMAS. L.T. was physically abused by VICKI THOMAS and EDDIE THOMAS who "would use whatever they could find" to administer the "whoopings." VICKI THOMAS and EDDIE THOMAS resorted to "broom handles, hands, shoes, car [seat] belts, sticks, belts and clothes hangers." Sometimes, the "whoopings" administered by VICKI THOMAS and EDDIE THOMAS caused bleeding and if she tried to clean up the blood she would receive additional punishment. In one beating L.T. was thrown on the floor by EDDIE THOMAS and as he put his foot on her head, he "whoop" her.

112. On or about February 24, 2005, L.T. now 10-1/2 years old runs away from the Thomas home and is place under Protective Services and taken to a children's shelter, Treehouse.

113. At all relevant times hereto, the Department closed the 2005 Investigative Report for Child Safety Assessment with verified findings of sexual molestation of L.T.

by her paternal uncle/custodian, EDDIE THOMAS, and failure to protect from inflicted injury by L.T.'s aunt/custodian, VICKI THOMAS, and some indication of substance exposure, based on the Child Protection Team Forensic Interview and the statements of L.T.. The minor, female, L.T. was removed from the care and custody of EDDIE THOMAS and VICKI THOMAS due to verified findings of sex molestation.

114. On or about March 24, 2005, the Department finally filed a Motion to Change Placement and to Reinstate Protective Services (previously terminated in 2000 by Defendants MANDRELL and PEASE) based upon allegations made by L.T. concerning the sexual and physical abuse she has received. The sexual abuse commenced in October 2004 and was repeated four to six times a week. L.T. received Court Ordered counseling for sexual abuse victims.

115. On or about March 25, 2005, L.T. was subjected to a forensic interview by the Child Protection Team which concluded that:

> "Based on information provided during the Forensic Interview, CPT concludes that there are verified findings of sexual molestation of L.T. by her father, actually uncle, Eddie Thomas. CPT also concludes that there are a least some indicators that Vickie Thomas failed to protect her daughter."

116. On or about April 4, 2005, EDDIE THOMAS was arrested for Sexual Battery on L.T.

117. As a result of the actions set forth above, Plaintiff suffered physical and emotional damages which are permanent will require lifetime treatment and will result in lost future earning capacity and will require substantial future medications.

COUNT 1 – 42 U.S.C. § 1983 CLAIM AGAINST DEFENDANTS MANDRELL AND PEASE

118. Plaintiffs hereby reallege and reavers the allegations contained in

paragraphs 1 through 6, 9 though 80, 105 through 109.

119. At all times material hereto, Defendants MANDRELL and PEASE willfully disregarded adverse information and further with deliberate indifference jointly and severally failed to perform their evaluation and investigative duties regarding appropriateness of the initial placement and the continued placement of L.T. in the home of Eddie Thomas and Vicki Thomas and the ensuing obvious and serious concerns for the safety of L.T.. At all material times hereto, Defendants MANDRELL and PEASE acted under the color of state law.

120. At all times material hereto, Defendants MANDRELL and PEASE knew that their failure to consider, record and/or investigate the serious and obvious safety concerns surrounding the Thomas household would cause L.T., to be deemed "dependent" by the State of Florida and placed under protective services, to be vulnerable to serious risk of physical, sexual abuse and harm when Defendants MANDRELL and PEASE caused L.T.'s wrongful placement in the home of Eddie Thomas and Vicki Thomas beginning September 22, 1995.

121. Defendants MANRELL and PEASE acted in 1995, with deliberate indifference to the safety of and potential harm to L.T., then a 1-1/2 year old child, by ignoring the following well-established indicators that L.T. was in danger or in all likelihood would become endangered as a result of the wrongful placement:

a. Ignoring and failing to investigate allegations of illegal drug use by the Thomas' in the Thomas home;

b. Failing to give consideration to and investigate Vicki Thomas' fitness as a custodian, Vicki Thomas' neglect and abandonment of her own three natural children and the Department's repeated suits filed against Vicki Thomas for

her failure to pay child support to the father of her natural children;

c. Failing to specifically address and document the inadequacy of physical setting such as inadequate number of rooms and lack running water;

d. Failing to address the Thomas' lack of financial ability to provide care;

e. Failing to address the instability of marriage between Eddie Thomas and Vicki Thomas even after Defendants MANDRELL and PEASE had actual knowledge that Eddie Thomas engaged in at least one adulterous affair with a woman living in Gadsden County;

f. Failing to address the obvious deficiencies in parenting skills of Eddie Thomas and Vicki Thomas;

g. Failing to address Vicki Thomas' inability and unwillingness to protect L.T. and her younger brother from abuse;

h. Failing to address additional potential problem areas which include but are not limited to Eddie Thomas' arrest for possession of narcotic equipment and non-payment of child support, and Vicki Thomas abandonment of her own three natural children. Further failing to address Vicki Thomas' lack of candor regarding the reasons for removal or abandonment of her natural children, her concealment of her natural children's whereabouts, inter alia, in direct contravention of the Department's Operating Procedure, CFOP 175-34; Florida Administrative Code 65C-11.003, and Florida Statute §39.508.

i. Failing to conduct and obtain full and complete background and criminal checks of Eddie Thomas and Vicki Thomas in direct contravention of the Department's Operating Procedure, CFOP 175-34,

j. Failing to record and ignoring the factor that Vicki Thomas had been herself a victim of sexual abuse.

k. Making reckless representations without proper investigation regarding the fitness of Vicki Thomas and

Eddie Thomas to act as custodians for one-and-one-half year old L.T. and her younger infant brother.

122. Defendants MANDRELL and PEASE acted with willful disregard for the safety of L.T. in 1996 forward as they continued their placement of L.T. with Eddie Thomas after having actual knowledge of Eddie Thomas' criminal felony arrest for sexually abusing the 13-year-old child of his girlfriend. Defendants MANDRELL and PEASE continued the placement in the Thomas home despite their actual knowledge that:

(a) Eddie Thomas was the caretaker and custodian of the minor, L.T.;
(b) Eddie Thomas had full and complete access to his toddler niece, LT, as he awaited felony criminal trial for child sexual abuse;
(c) Eddie Thomas was in direct contravention of a Court Order of No-Contact with L.T. entered for the safety of L.T. entered to ensure that L.T. had no contact with Eddie Thomas; and
(d) Vicki Thomas failed to disclose to the Department that her husband, Eddie Thomas, had been arrested for sexual child molestation and battery and further Vicki Thomas exhibited atypical denial behavior of the allegations against her husband, a fact which in conjunction with either Vicki Thomas' personal history or taken alone, would be a primary indicator that Vicki Thomas lacked candor and would not be able to protect the minor L.T. or would act to protect Eddie Thomas at the expense of L.T.

123. With such knowledge, Defendants MANRELL and PEASE acted with deliberate indifference to the safety of L.T. and her right to be safe from unreasonable risk of harm by the following acts or omissions:

(1) failing to remove L.T. from the Thomas home;
(2) failing to amend the Case Plan for L.T. in contravention of §39.601(d) F.S. to address the obvious safety concerns;
(3) failing to immediately institute a Safety Plan for L.T. addressing the obvious safety concerns; and
(4) failing to adequately evaluate the risks of physical and sexual abuse to LT., inter alia.

124. Defendants MANDRELL and PEASE acted with deliberate indifference to the safety of L.T. and her right to be safe from unreasonable risk of harm by (a) assisting

Eddie Thomas in his repeated violation of the No-Contact Order; (b) allowing Eddie Thomas to have full and complete access to L.T. after having knowledge of his criminal felony arrest for sexually abusing a child; (c) failing to notify the ordering Judge and law enforcement that Eddie Thomas had violated the No-Contact Court Order; and (d) further failing to remove L.T. upon Eddie Thomas' refusal to abide by the No-Contact Court Order when he refused to leave the home and remained and/or returned to the home.

125. Defendants MANDRELL and PEASE acted with deliberate indifference to the safety of L.T. by failing to amend the Case Plan when Eddie Thomas entered a plea to felony criminal misconduct with a minor child and became a "Sexual Offender" under the laws of the State of Florida and sentenced to five years probation, sexual offender evaluation, and sexual offender counseling on April 9, 1997. Defendants MANDRELL and PEASE acted with deliberate indifference by further failing to remove L.T. when her uncle was deemed a "Sexual Offender" under the laws of the State of Florida because no preventive services could ensure the health and safety of the female child, L.T.

126. Defendants MANDRELL and PEASE acted with deliberate disregard in recommending and advocating to the Department that L.T. be adopted by the Thomas' even after having actual knowledge that Eddie Thomas was a Sexual Offender under the laws of the State of Florida. Defendants MANDRELL and PEASE acted with deliberate indifference by circumventing the F.S. §435.045 prohibition against placing a child for adoption with a Sexual Offender. Defendants MANDRELL and PEASE acted with reckless disregard to circumvent the prohibition against adoption in F.S. §435.045, by instead recommending and certifying the "long-term relative placement" of L.T. in the home of Eddie Thomas until she reached the age of majority. Defendants MANDRELL

and PEASE acted with reckless disregard in circumventing F.S. §435.045, as a result of Defendants MANDRELL and PEASE having actual knowledge that Eddie Thomas was a Sexual Offender who was statutorily prohibited from adopting a child and knowing that such a home situation rendered L.T. at risk for incestual sexual abuse and other physical and emotional abuse by both or either of the caretakers.

127. Defendants MANDRELL and PEASE knowingly obscured the fact that Eddie Thomas was a "Sexual Offender" and cloaked the exact nature of his criminal felony offense (sexual abuse of a 13-year old female minor) by instead describing Eddie Thomas' criminal history of sexual abuse of a minor with the generic language "the Agency's policy regarding criminal history" in their records and reports when referencing Eddie Thomas' conviction. Defendants thereby and with reckless disregard forced the wrongful placement of L.T. with the unfit custodians Eddie Thomas and Vicki Thomas to the detriment of the safety and wellbeing of L.T..

128. In addition to causing the wrongful placement of L.T. with reckless disregard for the safety of L.T., Defendants MANDRELL and PEASE, further caused the Department to withdraw the Department's Protective Services for L.T at the precise moment that the facts known to Defendant's MANDRELL and PEASE would have dictated that L.T. needed Protective Services and a change of placement.

129. Defendants MANDRELL and PEASE actions or failures to act were done with knowledge that said acts and omissions would deprive L.T. of her constitutional rights and that placement and continued placement in a home situation with her uncle, a Sexual Offender, constituted a substantial and immediate danger to L.T.'s physical, mental, emotional or sexual wellbeing, health and safety and could not be mitigated by

the provision of preventive services and further that L.T. could not safely remain in the home because there were no preventive services that could ensure the health and safety, L.T.. At all relevant times, it was clearly established law that children in state custody and further placed by the state had the right to be safe and free from unreasonable risk of harm. Defendants MANDRELL and PEASE violated this clearly established constitution right to be safe and free from unreasonable risk of harm while deemed "dependant" by the State.

130. At all times material hereto the duties of the Defendants MANRELL and PEASE and the application of such duties were clearly established law codified in the Florida Statutes, the Florida Administrative Code, and the Department's Operating Procedure, and Departmental Policy and Procedure.

131. At all times material hereto, Defendant MANDRELL and PEASE recklessly and knowingly continued placement of L.T. with her convicted Sexual Offender uncle, Eddie Thomas, and his unfit wife, Vicki Thomas, and further recommended termination of Protective Services. In so doing, Defendants MANDRELL and PEASE violated and breached L.T.'s fundamental right of physical safety by leaving L.T. in an unsafe placement with unfit caretakers, which caused L.T. to be in grave danger of sexual abuse by her Registered Sexual Offender uncle and other physical and emotional abuse. At all material times hereto, Defendant MANDRELL and PEASE were aware that although Protective Services could not ensure the health and safety of L.T., that withdrawal of the Department's Protective Services was not mandatory. L.T. was eligible for Protective Services she reached 18 years of age. Defendant's MANDRELL and PEASE acted in a reckless and outrageous manner in knowingly removing or

recommending the removal of Protective Services which would have acted as the most minimal safety net to monitor L.T.'s safety as she was abandoned in her placement to reside with her Sexual Offender uncle, Eddie Thomas, and his unfit wife, Vicki Thomas. The actions by Defendants MANDRELL and PEASE, virtually assured that when L.T. reached the age of puberty, she would be sexual and physically abused by Eddie Thomas. Defendants MANDRELL and PEASE acted in total disregard of the constitutionally rights of L.T..

132. The actions or omissions of Defendants MANDRELL and PEASE were done with knowledge that said actions and omissions exposed L.T. to unreasonable risk of harm, and would deprive L.T. of her constitutional rights.

133. Despite having the authority and means to remedy the unconstitutional temporary placement and subsequent permanent placement of L.T. in the home of Eddie Thomas and Vicki Thomas and the accompanying unconstitutional withdrawal of Protective Services, Defendants MANDRELL and PEASE were recklessly indifferent to the above said conditions as well as specifically to Eddie Thomas' arrest and conviction as a Sexual Offender in the State of Florida, and knowingly and recklessly failed to take immediate action which would ensure the female minor, L.T.'s, safety.

134. This claim is filed within the appropriate limitations pursuant to Florida Statute §95.11(7). Eddie Thomas engaged in incest with L.T. as defined in Florida Statute §826.04 and engaged in abuse of L.T. as defined in §39.01(2).

135. As a result of Defendants MANDRELL and PEASE'S deliberate indifference, L.T., a minor female child, suffered continuous physical, emotional, psychological and sexual abuse in the Eddie Thomas and Vicki Thomas home.

136. As a proximate result of the Defendants MANDRELL and PEASE'S actions and deliberate indifference, L.T. experienced damages, including, but not limited to, damages for her pain, suffering, repeated sexual abuse, illegal drug exposure, and beatings. L.T. will require services and treatment for the rest of her life due to the severe psychological trauma and other harm endured while in state placement.

137. Plaintiff is obligated to the undersigned firm for the payment of attorney's fees and seek recovery of reasonable attorney's fees pursuant to the provisions of 42 U.S.C. § 1988.

WHEREFORE, the Plaintiff, L.T. by and through her Permanent Custodian, Vicki McSwain, and her Attorney Ad Litem, Sean Cuillton, pray that this Honorable Court award a judgment in favor of the Plaintiff by and on behalf of the minor child, L.T., and against Defendants MANDRELL and PEASE for all recoverable damages, attorneys' fees and costs, and such other relief as the Court may deem proper. Plaintiff demands a jury trial.

COUNT 2 – 42 U.S.C. § 1983 CLAIM AGAINST DEFENDANTS JOHNSON AND SPIVEY

138. Plaintiffs hereby reallege and reavers the allegations contained in paragraphs 1 through 4, 7 through 30, and 77 through 117.

139. At all times material hereto (2003 forward), Defendants JOHNSON and SPIVEY willfully disregarded adverse information and further failed to perform proper evaluation and investigative duties regarding the 2003 Florida Abuse Hotline in continuing placement of L.T. in the Thomas household. At all material times hereto, Defendants JOHNSON and SPIVEY acted under the color of state law.

140. Defendants JOHNSON and SPIVEY with deliberate indifference failed to perform their duties to evaluate and investigate an anonymous 2003 Florida Abuse Hotline report in accordance with well-established law codified in the Florida Statutes, Florida Administrative Code, and the Departmental Operating Procedures referenced above. At all times material hereto, Defendants JOHNSON and SPIVEY with reckless disregard for the safety of L.T. by the continued placement of L.T. in the home of Eddie Thomas and Vicki Thomas. Defendants JOHNSON and SPIVEY acted with deliberate indifference by ignoring, failing to investigate, and failing to use proper investigative procedures to adequately investigate the 2003 HotLine report. Defendants JOHNSON and SPIVEY ignored overwhelming facts which either were known to them or with minimal investigation should have been known to them, and which would have put any reasonable person on notice that the health, safety and welfare of L.T. was threatened by the improper and wrongful placement.

141. At all times relevant hereto, without proper cause or reasonable investigation, Defendants JOHNSON and SPIVEY with reckless disregard "CLOSED" the 2003 Florida Abuse Hotline Report when they knew or should have known that their failure to perform their statutory and administrative duties and their failure to abide by the well-established laws, regulations and procedures codified by the laws of the State of Florida, could or in all likelihood would result in the sexual, physical, and emotional abuse of L.T. by L.T.'s Department appointed custodians, Eddie Thomas and Vicki Thomas.

142. Defendants JOHNSON and SPIVEY'S actions or failures to act during their investigation of the 2003 Florida Abuse Hotline report, were done with reckless

disregard and that at said actions and omissions would deprive L.T. of her constitutional rights. At all relevant times hereto, it was clearly established that children deemed dependant by the state had the right to be safe and free from unreasonable risk of harm.

143. At all material times hereto, Defendants JOHNSON and SPIVEY knew that there was an absolute bar to placement of a child with any person where the mandatory §435.04, F.S., level 2 screening check of their criminal records revealed any felony conviction for child abuse or a crime against children including Sexual Offenders as defined by the laws of the State of Florida, and specifically enumerating felony criminal offenses under Chapter 800. A level 2 screening check would have established that Eddie Thomas was a Registered Sexual Offender in 2003.

144. At all times material hereto, while Defendants JOHNSON and SPIVEY were investigating the 2003 HotLine report, they willfully disregarded adverse information that Eddie Thomas, the caretaker and custodian L.T., was a REGISTERED SEXUAL OFFENDER convicted of a felony under §800.04, making L.T.'s placement with Eddie Thomas illegal under well-established Florida law. Defendants JOHNSON and SPIVEY and further ignored the serious concerns raised in the March 23, 2003, Florida Abuse HotLine report regarding the safety of L.T.. Thereby, Defendants JOHNSON and SPIVEY with reckless disregard and without proper cause or reasonable investigation CLOSED the 2003 HotLine investigation. The closure of the 2003 HotLine investigation required L.T. to remain in placed in the home of EDDIE THOMAS and VICKI THOMAS. The Defendants JOHNSON and SPIVEY with reckless indifference ignored the 2003 HotLine report that alleged that L.T. was endangered by the following:

(1) sexual abuse;
(2) illegal substance exposure to L.T. and her younger brother within the

> Thomas home; and
> (3) neglect, including the inability of Vicki Thomas to protect and ensure the safety of the L.T. from abuse by Eddie Thomas, and the possible existence of any prior abuse or neglect and related services history of each custodian.

145. At all relevant times Defendants JOHNSON and SPIVEY were aware that Eddie Thomas as an adult male Sexual Offender presented a substantial and immediate danger to the L.T.'s safety or physical, mental, or emotional health which could not be mitigated by the provision of preventive services or L.T. could not safely remain at such a home, either because there are no preventive services that could ensure the health and safety of L.T. or, even with appropriate and available services being provided, the health and safety of L.T. could not be assured.

146. At all times relevant hereto, Defendants JOHNSON and SPIVEY had knowledge that their reckless disregard in conducting the 2003 HotLine investigation by omitting, missing or ignoring facts, failing to perform their well-established investigative duties mandated by Florida law and failing to follow Departmental procedures would lead to "Closing" the Florida Abuse Hotline investigation. The closure of the 2003 HotLine investigation by Defendants JOHNSON and SPIVEY would again leave L.T. in an illegal placement with her Registered Sexual Offender uncle, Eddie Thomas. This illegal placement would ensure that L.T. again remained in a situation where L.T. could be or continued to be sexually abused, exposed to illegal substances, and other physical abuse including beatings.

147. At all times relevant hereto, Defendants JOHNSON and SPIVEY, with reckless disregard failed to perform their duties in investigating and assessing the then current situation in 2003 regarding the possibility of sexual abuse of L.T. and with

reckless disregard failed to consider or determine if L.T., who had then grown into a 9-year-old, was in danger of being sexually abused by her uncle Eddie Thomas who was a Registered Sexual Offender. Eddie Thomas had been previously plead in 1997 to sexually abusing the 13-year-old daughter of his girlfriend. This prior criminal conduct was well known to Defendants JOHNSON and SPIVEY. Defendants JOHNSON and SPIVEY acted with reckless disregard by failing to act to protect L.T. as she reached the age of puberty.

148. At all times relevant hereto, Defendants JOHNSON and SPIVEY caused the minor female, L.T., to remain in a placement where she could be sexually abused, exposed to illegal substances, and other physical abuse when they recklessly conducted the investigation by omitting, missing or ignoring facts and investigative duties and procedures, which include but are not limited to:

(1) Failing to disclose the nature of the criminal histories of Eddie Thomas (Registered Sexual Offender 5-year probation; Narcotic Equipment Possession 3-year probation) and Vicki Thomas (Grand Larceny 2000; Public Assistance Fraud 2002 1-year probation);

(2) Failing to openly disclose and address that L.T.'s uncle, Eddie Thomas, was Registered Sexual Offender in the Investigative Decision Summary Narrative concerning the allegations from the Florida Abuse Hotline report;

(3) Failing to take action to have L.T. assessed and evaluated for treatment as a possible sexual and physical abuse victim; and

(4) Failing to conduct a current and independent investigation into possible sexual abuse. Defendants JOHNSON and SPIVEY completely and solely relied upon a 5-year-old probationary record instead of conducting any investigation into the current, 2003 situation including failing to research the public records of Gadsden County.

(5) Failing to employ proper interviewing techniques by interviewing L.T. at all times in the presence of the complicit and unfit caretaker Vicki Thomas during an office appointment which had been set to specifically investigate sexual abuse and drug use.

(6) Failing to properly inquire into the specific allegation that Eddie Thomas and Vicki Thomas "are using cocaine. They take the children with them when they purchase the drugs."

(7) Failing to require Eddie Thomas to undergo a urinalysis or TOX screening and solely relying on Eddie Thomas' representation that he had never taken the children with him to buy drugs and that he never bought drugs, despite Defendant's having knowledge of Eddie Thomas' criminal past which included drug related offenses.

(8) Failing to properly inquire into the specific allegation that Vicki Thomas' "own children were taken away from her by her ex husband," and that Vicki Thomas and Eddie Thomas "were unfit caretakers." Defendant Johnson with reckless disregard simply accepted Vicki Thomas' self-serving denials and explanations that Defendant JOHNSON failed to investigate. Had Defendant JOHNSON investigated the public records of Gadsden County, she would have discovered that Vicki Thomas had abandoned her three natural born children and that Vicki Thomas had been repeatedly sued by the Defendant's very own Department for failure to pay child support.

(9) Failing to disclose and accurately record in *HomeSafenet* that Vicki Thomas was at the time of the investigation, serving one-year probation for Public Assistance Fraud, which related to L.T. and her younger brother.

(10) Failing to record an important indicator in risk assessment that Vicki Thomas was a childhood sexual abuse survivor.

(11) Failing to acknowledge or accurately record marital problems between Eddie Thomas and Vicki Thomas which were documented to have existed as early as 1996.

149. Despite having the authority and means to remedy the unconstitutional temporary and permanent placement of L.T. in the home of Eddie Thomas and Vicki Thomas and the accompanying unconstitutional withdrawal of protective services, Defendants JOHNSON and SPIVEY were deliberately indifferent to said conditions and specifically to Eddie Thomas' arrest and conviction as a Sexual Offender in the State of Florida, and knowingly and recklessly failed to take immediate action which would ensure the female minor, L.T.'s, safety.

150. This claim is filed within the appropriate limitations pursuant to Florida Statute §95.11(7). Eddie Thomas engaged in incest with L.T. as defined in Florida Statute §826.04 and engaged in abuse of L.T. as defined in §39.01(2).

151. As a result of Defendants JOHNSON and SPIVEY'S deliberate indifference, L.T., a minor female child, suffered continuous physical, emotional, psychological and sexual abuse in the Eddie Thomas and Vicki Thomas home.

152. As a proximate result of the Defendants JOHNSON and SPIVEY'S actions and deliberate indifference, L.T. experienced damages, including, but not limited to, damages for her pain, suffering, repeated sexual abuse, illegal drug exposure, and beatings. L.T. will require services and treatment for the rest of her life due to the severe psychological trauma and other harm endured while in state placement.

153. Plaintiff is obligated to the undersigned firm for the payment of attorney's fees and seek recovery of reasonable attorney's fees pursuant to the provisions of 42 U.S.C. § 1988.

WHEREFORE, the Plaintiff, L.T. by and through her Permanent Custodian, Vicki McSwain, and her Attorney Ad Litem, Sean Cuillton, pray that this Honorable Court award a judgment in favor of the Plaintiff by and on behalf of the minor child, L.T., and against Defendants JOHNSON and SPIVEY for all recoverable damages, attorneys' fees and costs, and such other relief as the Court may deem proper. Plaintiff demands a jury trial.

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